Strasbourg, 23 December 2014

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EUROPEAN SOCIAL CHARTER

GOVERNMENTAL COMMITTEE

REPORT CONCERNING CONCLUSIONS 2013 OF THE EUROPEAN SOCIAL CHARTER (revised)

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

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

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

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

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I. Introduction

1. This report is submitted by the Governmental Committee of the European Social Charter and the European Code of Social Security (hereafter "The Governmental Committee") made up of delegates of each of the forty-three states bound by the European Social Charter or the European Social Charter (revised) . Representatives of the European Trade Union Confederation (ETUC) attended the meetings of the Governmental Committee in a consultative capacity. Representatives of both the International Organisation of Employers (IOE) and the Confederation of European Business (BUSINESSEUROPE) were also invited to attend the meetings in a consultative capacity. IOE attended the meeting held from 19 to 23 May 2014.

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

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

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

5. In accordance with Article 21 of the Charter, the national reports to be submitted in application of the European Social Charter concerned Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Russian Federation, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Portugal, Romania, Serbia, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine. Reports were due by 31 October 2012.

6. Conclusions 2013 of the European Committee of Social Rights were adopted in December 2013 (Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Russian Federation, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Portugal, Romania, Serbia, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine).

7. The Governmental Committee took note that no further ratification has been done in the last reporting cycle.

8. On 2 April 2014, the Committee of Ministers adopted at its 1196th meeting a new procedure of the reporting system on the European Social Charter entitled 'Ways of streamlining and improving the reporting and monitoring system of the European Social Charter'. In 2014, the Governmental Committee applied already the new procedure by examining orally only the conclusions of non-conformity as selected by the European Committee of Social Rights.

9. The Governmental Committee held two meetings in 2014 (19-23 May 2014, 13-17 October 2014) with Mme Jacqueline MARECHAL (France) in the Chair. Mme MARECHAL was assisted by the Bureau, composed of Ms Elena VOKACH-BOLDYREVA (Russian Federation, 1st Vice-Chair), Ms Joanna MACIEJEWSKA (Poland, 2nd Vice-Chair), Ms Lis WITSØ-LUND (Denmark) and Ms Kristina VYSNIAUSKAITE-RADINSKIENE (Lithuania).

II. Examination of Conclusions 2013 of the European Committee of Social Rights

10. The abridged report for the Committee of Ministers only contains summaries of discussions concerning national situations in the eventuality that the Governmental Committee proposes that the Committee of Ministers adopt a recommendation or renew a recommendation. No such proposals were made in the current supervisory cycle. The detailed report is available on www.coe.int/socialcharter.

11. The Governmental Committee applied the rules of procedure adopted at its 125th meeting (26 – 30 March 2012). In applying these measures and according to the modalities decided by the Bureau in March 2014, it debated orally only the Conclusions of non-conformity as selected by the European Committee of Social Rights.

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

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

14. During its examination, the Governmental Committee took note of important positive developments in several States Parties. It also asked governments to take into consideration any previous Recommendations adopted by the Committee of Ministers.

15. The Governmental Committee urged governments to continue their efforts with a view to ensuring compliance with the European Social Charter.

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

Resolution on the implementation of the European Social Charter during the period 2008-2011 (Conclusions 2013), provisions related to the thematic group "Health, social security and social protection")

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

The Committee of Ministers,

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

Having regard to Article 29 of the Charter;

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

Considering Conclusions 2013 of the European Committee of Social Rights appointed under Article 25 of the Charter;

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

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2013 of the European Committee of Social Rights and in the report of the Governmental Committee.

EXAMINATION ARTICLE BY ARTICLE[2]

Conclusions 2013 – Revised European Social Charter (RESC)

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

ARTICLE 3– RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Article 3§1 – Safety and health regulations

RESC 3§1 ALBANIA

The Committee concludes that the situation in Albania is not in conformity with Article 3§1 of the Charter on the grounds that it has not been established that:

- *public authorities are involved in research relating to occupational health and safety, training of qualified professionals, definition of training programmes or certification of processes;*
- *employers' and employees' organisations are being consulted by public authorities in practice.*

17. Additional information is to be provided in the next National Report.

RESC 3§1 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 3§1 of the Charter on the grounds that it has not been established that there is an adequate occupational health and safety policy.

18. Additional information is to be provided in the next National Report.

RESC 3§1 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 3§1 of the Charter on the grounds that:

- there is no appropriate occupational safety and health policy;
- there is no adequate system to organise occupational risk prevention.

19. Additional information is to be provided in the next National Report.

RESC 3§1 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 3§1 of the Charter on the grounds that it has not been established that:

- *there is an adequate occupational health and safety policy;*

[2] State Parties in English alphabetic order.

- *occupational risk prevention is organised at company level, work-related risks are assessed and preventive measures geared to the nature of risks are adopted.*

20. The representative of Malta provided the following information in writing:

OHS policy

Currently, OHS falls within the remit of the Ministry for Social Dialogue Consumer Affairs and Civil Liberties, which also establishes the general OHS national policy. As established under Act XXVII of 2000 (Art. 9 (2) (b)), it is the role of the Minister responsible for OHS to indicate to OHSA the general national OHS policy. However at a higher political level, any direction on OHS has to be consistent with that agreed by the Cabinet of Ministers particularly that relating to the general Government policies such as on social, economic and political matters. Thus OHS policy has to be seen in the context of the national overall perspective.

In practice this political direction (or Policy) is directed to OHSA though the OHSA Board and CEO-OHSA, who in turn draw up a number of actions to meet this direction as given, for instance, OHSA has drawn up its enforcement policy and a plan on how to organize administrative fines. In addition, even the day-day actions of OHSA are based on this political direction such as nurturing a culture of prevention at places of work and striking a balance between enforcement and awareness raising.

Potential burdens from OHS legislation

In their report to OHSA (dt. August 2011), MEU identified a number of OHS legislative clauses which may be imposing unnecessary burden on duty holders, such as:

(a) Delay in introducing the administrative fines system;

(b) A number of work equipment legislation which may require updating;

(c) The frequency of conducting fire drills which may be too demanding on certain employers;

(d) General OHS documentation compilation / retention.

Since this report was presented, the OHSA has obtained Cabinet of Minister's approval to publish the necessary Legal Notice to promulgate the introduction of the Occupational Health and Safety (Payment of Penalties) Regulations 2012 (LN 36 / 2012) whereby any duty holder who receives an intimation from OHSA for payment of a pecuniary fine for an offense listed in the Schedule I to these regulation and who rectifies the infringement and settles the fine with OHSA, will have the Court action on this offense stopped.

In addition during 2012 OHSA also published an amendment to LN 44 / 2002 so that Regulation 9 (15) makes it possible for employers to appoint a person competent in fire safety to determine a different frequency for that employer's workplace, which in any case shall not be longer than once every twelve months, as was originally determined by the 2002 regulations.

OHSA has appointed an internal working group to revise the Regulations on the use of Machinery at work and propose relevant legal amendments to reduce unnecessary bureaucratic burdens on duty holders. These proposals will be subject to a public consultation process before being present to Minster.

Amendments to Act XXVII of 2000

In view of a change of administration during 2013, the discussions already made on the new amendments to the OHSA Act had to commence from fresh. As a result, once the new Minister for OHSA was appointed in March 2013, the OHSA presented a document outlining the proposals for amendments to Act XXVII of 2000 draft proposals to the new Minister, who agreed with OHSA on the action proposed. Since then the proposals have also been discussed by OHSA Board which appointed a tripartite Working Group to discuss in detail the proposals at hand.

Organisation of risk prevention at company level

The comment in the conclusion is rather generic and as such has to be seen in the light of available data. Rightly so, the report highlighted an EU funded report commissions by OHSA to quote certain shortcomings observed in the field of OHS implementation at places of work. However this same report also highlighted that a good number of employers are already taking measures to ensure OHS and that trends observed in Malta are consistent with those abroad, e.g. larger companies being generally more compliant that smaller ones.

Training of professionals / involvement of University / other institutes

As part of it role to disseminate more awareness on the subject including to professionals, OHSA also delivers lectures and seminars as part of the curriculum of a number of faculties – the Faculty of Medicine and Surgery, the Faculty of Economics, Management and Accounts (FEMA), the Faculty of Engineering and the Faculty of Architecture (now renamed the Faculty of Built Environment). The Authority also supports the Centre for Labour Studies (within FEMA) by providing lecturers, course supervisors and tutors, the Course Coordinator and Members of the Exams Committee and Board of Studies for the course leading to the Diploma in Social Studies (Occupational Health and Safety). This is a two-year part time course which is considered by the Authority as a basic entry requirement for entry into the Authority's register of competent persons.

Over the last few years the OHSA also has also entered into an agreement with the University to deliver a course to undergraduates on OHS within the Degree-Plus Programme. The rationale behind this initiative is to mainstream basic concepts of occupational health and safety into as many diverse undergraduate courses at the University of Malta as possible.

In addition OHSA from time to time also organises seminars with a number of professionals / bodies to discuss topical OHSA issues such as seminars with the chamber of engineering on crane safety or with the Architects' Chamber (*Kamra tal-Periti*) on Construction Safety. Likewise, OHSA provides speakers to Trade Unions / Employers' associations during topic seminars or talks to their members on OHS (e.g. seminar with Shop Stewards, or with employers).

Design of training modules

OHSA is not involved in the delivery of specialised training or in the design of training modules, but OHSA only delivers awareness raising talks on OHS matters to the general public particularly employers and workers. By law it is the duty of an employer to organise, design and see to the delivery training to workers, based on the risks that same workers may be exposed to.

Designation of WHS representatives by employers

Considering that the absolute majority of companies in Malta are small or micro, OHSA, in discussion with employers' and workers' representatives at OHSA board level, had decided that for the correct interpretation of Art. 6 (4) of Act XXVII of 2000, at least one Workers' Health and Safety Representative shall be designated (in the manner stipulated in LN 36 / 2003) where 10 or more workers are employed. In consultation with the workers the number of WHSR may also increase, but as a minimum at least one shall be designated.

However OHSA does not agree with the comment at p. 7 that "…workers have no access to workers' health and safety representatives". In the same EU study the complete picture was presented i.e. depiction of employers who designated and those that did not designate WHSR. No where there was stated in this research report that in Malta, workers do not have access to Reps.

RESC 3§1 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 3§1 of the Charter on the ground that the public authorities' involvement in research relating to occupational health and safety as well as in the training of qualified professionals is inefficient.

21. Additional information is to be provided in the next National Report.

Article 3§2 – Safety and health regulations

RESC 3§2 ALBANIA

The Committee concludes that the situation in Albania is not in conformity with Article 3§2 of the Charter on the grounds that:

- *the health and safety legislation and regulations in force do not specifically cover a majority of risks;*
- *the level of protection against risks related to hazardous substances and agents is inadequate*

First ground of non-conformity

22. The Representative of Albania said that a number of legislative measures were already adopted or were about being prepared to improve the situation with respect to health and safety at work. For example, the issue of minors in the workforce or the issue of pregnant women at work had already been addressed.

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

Second ground of non-conformity

24. The Representative of Albania referred to 14 legislative measures under preparation to protect people against risks related to hazardous substances and agents (for example chemicals, asbestos and ionizing radiation).

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

RESC 3§2 ANDORRA

The Committee concludes that the situation in Andorra is not in conformity with Article 3§2 of the Charter on the ground that self-employed workers do not enjoy adequate protection.

26. The Representative of Andorra explained that the laws in Andorra regulating the relationship employers/employees did not include the self-employed. However, this did not mean at all that the self-employed were without any health and safety protection.

27. Nevertheless, in order to comply with the Conclusions of the ECSR, the Government of Andorra intended to modify the Labour Code to include specifically the self-employed.
The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 3§2 AUSTRIA

The Committee concludes that the situation in Austria is not in conformity with Article 3§2 of the Charter on the ground that self-employed workers are not sufficiently covered by occupational health and safety regulations.

28. The Representative of Austria said that according her Government there was no need to put in place the same occupational health and safety regulations for the self-employed as for the dependent employed. To impose on them the same safety rules may even be considered as contrary to the Austrian Constitution.

29. At the same time there were many programs organized for small and medium-sized companies with a view to developing a healthier workplace. Finally, the Representative of Austria made reference to a study of the Universität Bremen, which revealed the high level of health and safety regulations for the self-employed in Austria.
30. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 3§2 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 3§2 of the Charter on the ground that the occupational health and safety legislation and regulations do not afford self-employed workers adequate protection.

31. The Representative of France said that the self-employed as such were not defined in the Labour Code. The Labour Code would apply when a work contract was concluded between an employed and a employer.

32. National law contains no definition of the concept of self-employed worker. However, Article L 82221-6 of the Labour Code has introduced a “reverse” definition. Indeed, self-employment is characterised by the absence of a relationship of permanent legal subordination.

In its absence, there can be no employment contract. However, this form of work has undergone such development that the legislator has progressively applied the rules of occupational health and safety to self-employed workers.

In France there are some 2.3 million self-employed workers. This population is very disparate in terms of level of qualification, size of enterprise and income. These workers are

affiliated to the welfare scheme for the self-employed (RSI), which constitutes the compulsory social security of the self-employed.

The living and working conditions of these various occupations expose self-employed workers to various risks of greater or less significance for health.

In the light of the findings of national surveys, the self-employed display a fairly positive perception of their state of health. In fact the self-employed persons identified by their RSI affiliation declare themselves to be in better health by comparison with workers of the same age and gender belonging to the general scheme, irrespective of the health indicator used: perceived health, functional limitations, and presence of chronic illness.

The public authorities have concerned themselves with the difficulties encountered by members of these professions in understanding the generally applicable concepts and regulations in occupational health and safety where they themselves act as employers. That is why the occupational health plan 2010–2014 (PST2) includes an action targeting self-employed workers.

This PST2 action seeks to foster the development of actions to prevent occupational hazards. The lead agency of the action is the General Directorate of Labour in partnership with the Organisme professionnel de prévention du bâtiment et des travaux publics (OPPBTP)[3], the Agence nationale pour l'amélioration des conditions de travail (ANACT)[4], the RSI, and labour and management. The Conseil d'orientation sur les conditions de travail (COCT)[5], a national body for consultation between labour and management and public authorities, monitors the results of this action. It should be noted in this context that the Union nationale des professeurs libérales (UNAPL)[6] is a member of COCT and participates in monitoring the PST2.

The RSI has established a website http://www.rsi.fr/sante.html, making a survey by occupation of occupational hazards and providing advice as well as tools for professionals.

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

RESC 3§2 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 3§2 of the Charter on the ground that self-employed and domestic workers are not protected by occupational health and safety regulations.

34. The Representative of Hungary confirmed that no change had occurred in law and practice with respect to self-employed and domestic workers during the last reporting cycle. In Hungary, the Labour Code covered only those enjoying a defined relationship between employers and employed.

35. The GC urged the Government of Hungary to put the necessary legislative measures in place to comply with the requirements of the European Social Charter.

RESC 3§2 REPUBLIC OF MOLDOVA

[3] Professional body for prevention in building and public works.
[4] National agency for the improvement of working conditions.
[5] Advisory council on working conditions.
[6] National union of independent teachers.

The Committee concludes that the situation in the Republic of Republic of Moldova is not in conformity with Article 3§2 of the Charter on the grounds that:

- *levels of protection against asbestos and ionising radiation are inadequate;*
- *self-employed workers are not adequately protected.*

First ground of non-conformity

36. With respect to the protection against asbestos, the Representative of the Republic of Moldova said that her Government had transposed into national law on 8 April 2013 EU Directive 148/2004 on the protection of workers from the risks related to exposure to asbestos at work. Additional measures included the proper management of waste due to construction and demolition work.

37. With respect to the protection against ionizing radiation, the Representative of the Republic of Moldova said that her Government had adopted a number of norms and laws which were in line with radioprotection norms issued by EURATOM and the IAEA (International Atomic Energy Agency), the last one being adopted on 8 June 2012.

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

Second ground of non-conformity

39. The Representative of the Republic of Moldova recognised that the protection of self-employed workers was a sensitive and complex matter. Laws related to employment usually described a relationship between employers and employed. Obviously such a relationship did not exist for the self-employed.

40. Meanwhile, the Government of the Republic of Moldova has become well aware that also the self-employed required a minimum protection as to the health and safety at work. The question has been put on the agenda of the social partners with a view to identifying solutions which are to be compatible with the national Labour Code. In this context the Government of the Republic of Moldova would appreciate to exchange experiences with other countries.

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

RESC 3§2 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 3§2 of the Charter on the ground that domestic workers are not covered by occupational health and safety regulations.

42. The representative of Romania provided the following information in writing:

By Law no.18/2014 amending and supplementing Law no. 52/2011 on temporary activities carried out by day laborer, the situation of non-compliance determined by the fact that domestic workers did not have regulations on health and safety has been rectified.

Thus, according to the provisions of art.5 para.(3) of Law no.52/2011 on temporary activities carried out by day laborer, with its subsequent amendments and supplements, in the field of work health and safety, the employer has the following obligations:

a) to ensure work health and safety of day laborers;

b) to provide training for day laborers, before starting the activity and/or when changing the workplace, on the dangers that may be exposed and on the measures of prevention

and protection that should be followed;
c) to demand day laborers to assume the responsibility, under signature, that their health condition allow them to carry out the activities assigned by the employer;
d) to provide adequate working equipment for day laborers, which do not endanger their health and safety;
e) to provide free personal protective equipment, appropriate to the activity carried out by day laborers;
f) to communicate, as soon as possible, to the territorial labour inspectorate, under which jurisdiction an event took place , involving day laborers;
g) to record work accidents suffered by day laborers during their activity ; registration procedure is determined by the methodological rules of applying this law."

RESC 3§2 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 3§2 of the Charter on the ground that it has not been established that agency and temporary workers and workers on fixed-term contracts enjoy the same standard than workers in permanent employment.

43. The representative of the Slovak Republic provided the following information in writing:

Ground of non-conformity:

The Committee previously concluded (Conclusions XVIII-2 and XIX-2), pending receipt of the requested information, that the personal scope protects non-permanent and temporary workers in accordance with Article 3§1 of the 1961 Charter. It asked for specific examples of how non-permanent and temporary workers are trained and informed on occupational health and safety in practice. It also asked how medical surveillance is made available for these categories of workers and about the arrangements for their representation at work in health and safety matters (Conclusions XVIII-2 and XIX-2). It sought confirmation that Act No. 124/2006 applied to all types of employment contracts (Conclusions XIX-2).

The report does not provide any information on the subject. ILO Convention No. 181 on private employment agencies (1997) was ratified on 22 February 2010.
The Committee takes note of this information. Given the lack of reply to its specific and repeated questions, it does not have the information it requires to establish that agency and temporary workers and workers on fixed-term contracts are provided with information and training about occupational health and safety upon recruitment or when they change employment, that medical surveillance is made available for them, and that they are entitled to representation on occupational health and safety matters. The Committee concludes that it has not been established that the aforementioned workers enjoy the same level of protection than workers in permanent employment.

The Constitution of the Slovak Republic in Article 36 letter c) states that all workers are to be provided with safe working conditions and occupational safety and health protection.

Paragraph 2 of the Act 124/2006 Coll on Occupational Safety and Protection of Health at work defines that all categories of workers and employers fall under the scope of this act, therefore all workers and employers are granted the same standards.

The Act 311/2001 Coll the Labour Code in Article 3 of the Fundamental Principles states that all employees have the right to the occupational safety and protection of health at

work. Article 48, paragraph 7 states that employees who are not employed for indefinite period of time shall not be discriminated in the matters related to occupational safety and protection of health at work and are granted the same rights and obligations in these matters and employees working for indefinite period of time. The same applies for regular medical health examinations.

As far as representation of these workers is concerned, the legislation of the Slovak Republic provides that any person is able to form, join and participate on the work of trade unions without any discrimination based on age, gender, employment status, retirement, health condition, etc. This is provided for by the Act 83/1990 Coll. on the Association of Citizens and Act 365/2004 Coll. the Antidiscrimination Act. These persons represent all employees, not only those employed for indefinite period of time, but also employees working on part-time, fixed-term contract, etc. This is in accordance with the Antidiscrimination Act.

As far as training on issues related to occupational safety and health is concerned, this is provided to all employees employed on the basis of all types of contracts upon their recruitment, as is stated in article 7 paragraph 3 of the Act 124/2006 Coll on Occupational Safety and Protection of Health at Work.

RESC 3§2 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 3§2 of the Charter on the grounds that:

- *the coverage of occupational hazards by specific occupational health and safety legislation and regulations is insufficient;*
- *the level of protection against asbestos-related occupational hazards is insufficient.*

First and second ground of non-conformity

44. The Representative of Ukraine referred to a number of legislative and organizational measures launched recently which intended to address the two grounds of non-conformity concluded by the ECSR.

45. The Representative of Ukraine drew specific attention to the recently signed Association Agreement between the European Union and Ukraine. The Agreement also meant the transposal into national law of a number of EU Directives concerning safety and health at work.

46. The GC:

- hoped that the implementation of EU law as a follow-up to the EU/Ukraine Association Agreement would address the health and safety issues raised by the ECSR;
- took note of the positive developments and
- decided to await the next assessment of the ECSR.

Article 3§3 - Enforcement of safety and health regulations

RESC 3§3 ALBANIA

The Committee concludes that the situation in Albania is not in conformity with Article 3§3 of the Charter on the grounds that it has not been established that:

- occupational accidents and diseases are monitored efficiently;
- there is an efficient labour inspection.

47. Additional information is to be provided in the next National Report.

RESC 3§3 BULGARIA

The Committee concludes that the situation in Bulgaria is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

48. The representative of Bulgaria provided the following information in writing:

Measures to reduce the level of the fatal accidents at work and of the accidents leading to disability. Measures to prevent the risk in dangerous economic activities

According to Art.65 of the Social Security Code Accidents at Work and Occupational Diseases Fund funds measures to prevent the accidents at work and occupational diseases and to improve the working conditions by:

- Provision of advice and assistance to the insurers on creating and implementing an effective management system for occupational safety and health protection at work;
- Development and participation in the development of national sectoral programmes (strategies) in the area of the occupational safety and health protection at work;
- Conducting training and retraining of the workers in the issues related to the occupational safety and health protection at work;
- Implementing and assigning scientific research in the area of the occupational safety and health protection at work;
- Examining the status of the occupational safety and health protection at work;
- Investigation of accidents at work and occupational diseases individually or in collaboration with the other competent authorities;
- Conducting campaigns and provision of information to the public on the issues related to the occupational safety and health protection at work;
- Development and participation in the development of regulations related to the occupational safety and health protection at work;
- Study and dissemination of the positive experience in creating safety at work;
- Performance of other activities aimed at preventing the accidents at work and occupational diseases.

According to the Social Security Code the State Social Security Budget Act provides every year **funding of the activity related to the preventive care and rehabilitation of the insured persons.** The funds are allocated to the Sickness and Maternity Fund, Accident at Work and Occupational Diseases Fund, Pensions Fund and Pensions unrelated to the Work Fund. Basically, this is deemed to be an implementation of preventative health strategy by the National Social Security Institute (NSSI) aimed at reducing the temporary incapacity and preventing the reduced capacity to work due to sickness, accident at work and occupational disease. For this purpose, the insured persons are given the right to receive preventive care and rehabilitation benefits once in a calendar year for a hospital stay from 10 to 15 days, as the amount covers the cost of the basic medical services, accommodation and the partial funding for the meals.

In addition, the State Social Security Funds fund the performance of other activities related to the rehabilitation and reintegration of the insured persons on an annual basis, such as:

- Provision of technical aids for disabled persons - transfer to the Social Assistance Agency under the Ministry of Labour and Social Policy;
- Activities aimed at preventing the accidents at work and occupational diseases and diagnosis of the occupational diseases - transfer to Working Conditions Fund under the Minister of Labour and Social Policy.

Introduction of reduced working hours and additional paid annual leave for employees

To fully implement the commitments and practical application of the system for the prevention of occupational risks, the employer may introduce *reduced working hours and/or additional paid leave to employees* when it is not possible to completely prevent or significantly reduce the risks to their life and health.

The legal grounds for the reduction of working hours and additional leave are set out in the Labour Code (Art. 137 and Art. 156), and the terms and conditions for their establishment – by the relevant regulations:

- Regulation to Determine the Types of Work for Which Reduced Working Hours are Established (SG 103 of 2005) under Art. 137, Par. 2 of the Labour Code;

- Regulation to Determine the Types of Work for Which an Additional Paid Annual Leave is Established (SG 103 of 2005) under Art. 156, Par. 2 of the Labour Code;

There are two criteria on the basis of which certain types of work acquire part-time and/or additional paid annual leave – specific conditions and risks to life and health, which cannot be eliminated, restricted or reduced, regardless of measures. The aim is to limit the adverse effects of the working environment.

Reduction of working hours **leads to reduction of the risks to the health of the employees.** The specific scope and duration of reduced working hours are established by the Regulation to Determine the Types of Work for Which Reduced Working Hours are Established. The rules for the introduction of this standard are mandatory in nature and distinguish between two groups of workers – the ones who are entitled to a 6-hour working day and, respectively, a 7-hour day. Work, occupations and professions entitled to reduced working hours are exhaustively listed in Art. 2 and Art. 3 of the Regulation to Determine the Types of Work for Which Reduced Working Hours are Established. This does not mean automatic entitlement as there are other requirements that must be met in order for the employer to have the obligation to establish reduced working hours. They are related to the minimum period of employment under certain conditions (not less than half of the normal hours of work established by the Labour Code), the assessment of occupational risks, direct or indirect involvement with the specific type of work (for example, only workers who are directly employed in: the units of anatomy and forensic pathology, etc.; production, packaging, formulation and use of plant protection products and biocides, disinfectors, etc.; manufacture and testing of serums and vaccines, ionizing radiation environment; in underground facilities where there is a danger of silicosis: mines, mining sites, geological sites and sites of tunneling and mining construction, underground hydroelectric power stations and pump-storage hydroelectric power stations; manufacture of cast iron and steel, ferro-alloys, non-ferrous metals and alloys, etc.). Moreover, employees with complete loss of vision regardless of the type of work are also entitled to a 7-hour work day. Workers entitled to reduced working time according to the regulation should be specified by a written order of the employer after prior consultations with representatives of the employees and the workers, with the occupational health service and the committee/group on labour conditions. Risk assessments are to be taken into account by all means.

Additional paid annual leave **allows for longer annual leaves to workers** who work under conditions adversely affecting their health. Conditions for the acquisition of additional paid annual leave include work under specific conditions and risks to life and

health, which cannot be eliminated, restricted or reduced, to not less than half the normal working hours under the Labour Code. The regulation to determine the types of work for which an additional paid annual leave is established sets out exhaustively the types of work with risks to life and health. The requirement is for workers to work under these conditions less than half of the normal working hours under the Labour Code, with the exception of workers and employees who perform work in an environment of ionizing radiation. Also entitled to additional paid leave are workers with complete loss of vision or complete hearing loss regardless of the type of work. The amount of the additional paid annual leave may not be less than 5 working days within one calendar year. Workers who are given this right shall be specified by written order of the employer after prior consultation with representatives of workers, with the occupational health service and the committee/group on labour conditions and in accordance with the risk assessment. Larger amounts of additional paid annual leave can be negotiated in a collective agreement, and between the parties to the employment relationship.

Compulsory insurance against the risk of accidents at work

The Occupational Safety and Health Act requires that the employer shall insure the workers who perform work which may threaten their life and health against the risk of accidents at work.

The compulsory insurance against the risk of accidents at work of the workers who perform work which may threaten their life and health is directly related to the payment of compensation by the employer in case of death or injury to health of the worker pursuant to Art.200 of the Labour Code. The introduction of this employer's obligation is aimed to improve the culture of prevention and sharing of social responsibility in the people work.

The terms and conditions for compulsory insurance against the risk of accidents at work of the workers are defined by the Ordinance on the Compulsory Insurance of Workers and Employees against the Risk of Accidents at Work (State Gazette No. 15 of 2006).

The workers who carry out primary and support activities in companies which economic activity may cause occupational injuries equal to or higher than the average for the country are subject to compulsory insurance. The employees and workers who are insured on another basis against the risk of accidents at work, including the military personnel under the Defence and Armed Forces Act of the Republic of Bulgaria and the employees of the Ministry of Interior and National Civil Protection Service Directorate General, are not subject to compulsory insurance in accordance with the Ordinance. The economic activity of the company is determined according to the National Classification of Economic Activities. The scope of the Ordinance does not include the employees involved in the administration activities of the company or those performing support activity which is not directly related to the main activity (e.g. security guarding of the company, etc.). The cost of compulsory insurance of the employees and workers against the risk of accidents at work is fully paid by the employer. The employees and workers who are subject to compulsory insurance against the risk of accidents at work are determined by written order of the employer upon consultation with the Occupational Medicine Service and Working Conditions Committee / Group and in accordance with the risk assessment. The consultation is evidenced by a record.

The compulsory insurance against the risk of accidents at work covers the following risks:

- Death of the insured person due to accident at work;
- Reduced capacity to work due to accident at work;
- Temporary incapacity due to accident at work.

❑ **With regard to the non-compliance of the number of fatal accidents identified in the report with those of Eurostat and LABORSTA found by the Committee we give the following explanation:**

According to the national legislation (Social Security Code of 2000) the insurance against accidents at work and occupational diseases is made through the compulsory state social security. The National Social Security Institute (NSSI) is also assigned the tasks on establishing, investigating, recording and reporting the accidents at work.
The National Social Security Institute is an external statistical authority of the National Statistical Institute (NSI) in terms of the statistics on the accidents at work.
The National Social Security Institute provides statistics on the accidents at work to the Ministry of Labour and Social Policy (MLSP), directly to Eurostat - through the eDAMIS (electronic Data File Administration and Management Information System) - and to the International Labour Organisation - LABORSTA (ILOSTAT) - through the NSI.
The official source of statistics on the accidents at work is only one - the database of the accidents at work (administrative register) of the NSSI which is maintained and developed in accordance with the rules of the Accidents at Work Statistical System (AWSS). It allows for the application of Commission Regulation (EC) № 349/2011 of 11 April 2011 implementing Regulation (EC) № 1338/2008 of the European Parliament and of the Council on Community statistics on public health and health and safety at work in respect of the statistics on the accidents at work. Moreover, the AWSS allows for reference information about the accidents at work under various restrictive conditions which meet the requirements of both Eurostat and LABORSTA to be obtained.
There is no non-compliance of the number of fatal accidents referred to in the report with those of Eurostat and LABORSTA.
The difference in the number of fatal accidents reported by Eurostat and LABORSTA is due to the different methodology used by the two institutions in terms of the scope of accidents that are processed for statistical purposes:
The methodology used by LABORSTA includes processing of statistics on accidents at work, commuting accidents, temporary incapacity for one or more days and permanent incapacity. Due to this fact, the data shows that the total fatal accidents are 180, respectively 151 fatal accidents at work and 39 fatal commuting accidents.
The methodology used by Eurostat includes processing of statistics on accidents at work, temporary incapacity for more than 3 days (4 days or more) and permanent incapacity. Accidents at work leading to temporary incapacity up to 3 days (1, 2 and 3 days) are not subject to statistical processing. Due to this fact the total fatal accidents mentioned in the report (reference to the Eurostat data) and these of Eurostat are 151 in 2008, respectively 92 in 2010. (See the Eurostat data - Fatal Accidents at Work by Economic Activity [hsw_n2_02])[7]).
The 2,948 accidents at work leading to temporary incapacity specified in the report for 2008 do not include the accidents at work leading to permanent incapacity. 89 accidents at work leading to permanent incapacity should be added thereto in order to achieve full compliance with the Eurostat data for 2008 where the number of 3,037 accidents at work leading to temporary incapacity for more than 3 days is included in the accidents at work leading to permanent incapacity. The total number of accidents at work will also be changed from 3,099 to 3,188. The frequency ratio will change from 104 to 107. The Table "Statistics of the Accidents at Work - Bulgaria - Data for the Period 2008 - 2011" will be changed, as follows:

Statistics on accidents at work - Bulgaria - Data 2008 - 2011			
YEAR	Number of social security persons for accident at work	**Number of accidents at work**	**Incidence rate** (number of accidents at work per 100000 social security persons for accident at work)

[7] http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=hsw_n2_02&lang=en

		Total	with more than 3 day's absence	Fatal	Total	with more than 3 day's absence	Fatal
2008	2 827 007	**3188**	3037	151	**113**	107	5
2009	2 696 109	**2 572**	2 484	88	**95**	92	3
2010	2 556 799	**2 423**	2 331	92	**95**	91	4
2011*	2 586 143	**2 353**	2 261	92	**91**	87	4

(*) Preliminary information.

The comparison of the statistics on the accidents at work for 2008 reported by the two methodologies is shown in the table.

METODOLOGY	TYPE OF DATA	TOTAL (2+3)	Commuting accidents	Accidents at work		
				Total (4+5)	Less then 3 days lost	More than 3 days lost (4 days absence or more)
		1	2	3	4	5
		2008	2008	2008	2008	2008
LABORSTA	1. Cases of fatal injury	180	29	151		151
	2. Cases of non-fatal injury with lost worktime (3+4), of which:	3663	580	3083	46	3037
	3. Cases of permanent incapacity for work	103	14	89		89
	4. Cases of temporary incapacity for work	3560	566	2994	46	2948
	5. TOTAL CASES OF INJURY WITH LOST WORKTIME (1+2)	3843	609	3234	46	3188
	6. Cases of non-fatal injury without lost worktime	.	.	.	.	.
	7. Days lost by cases of temporary incapacity (as given under 4.)					
	8. Workers in the reference group	2827007				
	9. Rates of fatal injury	6,4				
	10. Rates of non-fatal injury	130				
EUROSTAT	1. Cases of fatal injury	151	excluded	151	excluded	151
	2. Cases of non-fatal injury with lost worktime (3+4), of which:	3037	excluded	3037	excluded	3037
	3. Cases of permanent incapacity for work	89	excluded	89	excluded	89
	4. Cases of temporary incapacity for work	2948	excluded	2948	excluded	2948
	5. TOTAL CASES OF INJURY WITH LOST WORKTIME (1+2)	3188	excluded	3188	excluded	3188
	6. Cases of non-fatal injury without lost worktime					
	7. Days lost by cases of temporary incapacity (as given under 4.)					
	8. Workers in the reference group	2827007				
	9. Rates of fatal injury	5				

	10. Rates of non-fatal injury	107				

The same comparison between the two methodologies may also be made of the statistics on the accidents at work reported in 2010.
The Eurostat data about the fatal accidents - 77 in 2008 and 42 in 2010 - mentioned by the Committee represents a sample of the report on the total fatal accidents - 151 in 2008 and 92 in 2010 (hsw_n2_02) under the restrictive conditions of the Eurostat report - Accidents at work by sex and age, excluding road traffic accidents and accidents on board of any mean of transport in the course of work (NACE Rev. 2, A, CN excluding H) [hsw_mi03].[8] The method of sampling of the fatal accidents reported in 2008 is shown in the table.

		Fatal	
	NACE	TOTAL Number	Road traffic accidents and accidents on board of any mean of transport in the course of work - A, C-N excluding H
Value	Codelist		
A	AGRICULTURE, FORESTRY AND FISHING	5	3
B	MINING AND QUARRYING	7	4
C	MANUFACTURING	27	10
D	ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY	1	.
E	WATER SUPPLY; SEWERAGE, WASTE MANAGEMENT AND REMEDIATION ACTIVITIES	4	3
F	CONSTRUCTION	52	6
G	WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTORCYCLES	16	9
H	TRANSPORTATION AND STORAGE	28	19
I	ACCOMMODATION AND FOOD SERVICE ACTIVITIES	1	.
J	INFORMATION AND COMMUNICATION	.	.
K	FINANCIAL AND INSURANCE ACTIVITIES	.	.
L	REAL ESTATE ACTIVITIES	.	.
M	PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES	1	1
N	ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES	2	
O	PUBLIC ADMINISTRATION AND DEFENCE; COMPULSORY SOCIAL SECURITY	5	1
P	EDUCATION	.	.
Q	HUMAN HEALTH AND SOCIAL WORK ACTIVITIES	2	2
R	ARTS, ENTERTAINMENT AND RECREATION	.	.
S	OTHER SERVICE ACTIVITIES	.	.
TOTAL	TOTAL - A-S	151	58
TOTAL	TOTAL - A, C-N excluding H	109	

[8] http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=hsw_mi03&lang=en

TOTAL	Road traffic accidents and accidents on board of any mean of transport in the course of work - A, C-N excluding H		32
TOTAL	Accidents at work by sex and age, excluding road traffic accidents and accidents on board of any mean of transport in the course of work (NACE Rev. 2, A, C-N excluding H) [hsw_ mi03] (109 - 32 = 77)	**77**	

The National Social Security Institute ensures that it, in its capacity as a national body responsible for the development, preparation and dissemination of statistics on the accidents at work, complies with the principles of the European Statistics Code of Practice.

❑ **With regard to the Committee's request for information about the measures taken to combat the possible non-reporting of all accidents at work in the practice we would like to inform you, as follows:**

The procedure for establishing the accidents is legally regulated by the Social Security Code and the Ordinance on Establishment, Investigation, Recording and Reporting of Accidents at Work.
Key measure to combat the non-reporting of all accidents at work is the procedure for establishing the accidents at work itself which is based on the reporting (official communication) of the accident to the body involved in the administration of the public social security funds, including those related to the accidents at work and occupational diseases, and which provides a right to benefits, grants and pensions to the victims of accidents or their survivors. The system to report the accidents at work which is based on the insurance principle both because of the legal obligation for the insurers and the economic incentive for the employees to notify the competent authority - the NSSI - of the accidents provides a high level of recording and reporting of the accidents at work. In addition, this is consistent with the prevailing practice in the EU countries to record the accidents at work by using insurance based system through public and private insurers.
The measures to combat the possible non-reporting of the accidents at work laid down in the legislation may be defined, as follows:

- The insurer shall report each accident to the Regional Office of the NSSI within 3 working days.
- The insurer shall investigate each accident. The results of the investigation shall be entered in a record. A copy thereof shall be deposited with the Regional Office of the NSSI.
- If the insurer fails to report the accident the victim or his / her survivors shall be entitled to report it to the Regional Office of the NSSI within one year from the date of the accident.
- The Ordinance on Medical Expertise requires that the physician who have issued the primary seek note of the accident at work that has led to temporary incapacity should send to the Regional Office of the NSSI a copy thereof within 3 days.
- If in the performance of their control activities the NSSI control authorities have found documents and circumstances which describe the accident as an accident at work they shall be entitled to give instructions to the insurer on reporting of the accident to the Regional Office of the NSSI, as any such instructions shall be binding on it. In this case the accident shall be reported to the Regional Office of the NSSI within 3 working days from the date of the control authority's instructions.
- The NSSI shall create a file for each accident at work reported to its Regional Office where it shall store all documents on the case.
- All accidents reported to the Regional Office of the NSSI shall be registered and processed in the NSSI accident information system. This will ensure that all accidents at work are reported in the statistics.

❑ **With regard to the Committee's request for information about all penalties imposed on the employers in the cases when they fail to perform their reporting obligations we would like to inform you, as follows:**

The Social Security Code requires that the insurer shall report each accident at work to the Regional Office of the NSSI within three working days. The failure of the insurer to report the accident at work is considered as a violation of the legislation on the state social security and is subject to administrative and criminal liability.
The entities violating the legislation are imposed a penalty form 100 to 2,000 BGN on a case-by-case basis and the insurers - legal entities and sole proprietors - are imposed a penalty payment from 500 to 2,000 BGN on a case-by-case basis.
In the event of further violation a penalty payment and / or a fine in the double amount of the original one is imposed.

❑ **With regard to the Committee's request for information about the cases of occupational diseases we would like to inform you, as follows:**

According to the Ordinance on the Terms and Conditions for Notification, Registration, Verification, Appeal and Reporting of Occupational Diseases (published in State Gazette No. 65 of 22 July 2008) the National Social Security Institute has been engaged with the activities on the registration and reporting of the occupational diseases since 2009.
With regard to the statistics of the occupational diseases we hereby provide the following available data about the number of regognised cases of occupational diseases for the period 2002-2010:

Total number for the country

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Recognised occupational diseases	324	:	312	187	:	70	71	116	31

Note:
1. The data for the period 2002-2006 is provided by the National Centre of Public Health Protection (NCPHP).
2. The data for the period 2007-2010 is provided by the NSSI.
3. In connection with the registration of the data on the occupational diseases in an information system the NSSI shall review the data on the recognised cases of occupational diseases for 2010.
4. The data for 2003 and 2006 are not available or are not applicable.

Recognised occupational diseases - distributed by "Medical diagnosis"

Diagnosis	2008	2009	2010
TOTAL	**71**	**116**	**31**
INFECTIONS	**2**	**1**	**0**
Tuberculosis	2	1	
CANCERS	**0**	**1**	**0**
Lung cancer		1	
NEUROLOGICAL DISEASES	**28**	**31**	**6**
Secondary parkinsonism		1	
Carpal tunnel syndrome	2	2	2
Other lesions of median nerve	1		
Lesion of ulnar nerve		1	
Polyneuropathy	25	27	4
DISEASES OF THE SENSORY ORGANS	**7**	**8**	**4**
Cataract		1	

Conjunctivitis			1
Noise-induced hearing loss	7	7	3
RESPIRATORY DISEASES	**23**	**61**	**16**
Allergic rhinitis	1		
Chronic nasopharyngitis		1	
Chronic bronchitis	2	1	1
Asthma	1	1	
Asbestosis	2	3	1
Silicosis	10	29	11
Aluminosis		1	
Siderosis		12	1
Other pneumoconiosis	5	6	2
Toxic pulmonary fibrosis	2	6	
Pleural plaque		1	
SKIN DISEASES	**2**	**0**	**0**
Allergic contact dermatitis	2		
MUSCULOSKELETAL DISEASES	**5**	**12**	**5**
Arthrosis of the elbow		1	
Spondylosis	1		
Cervical disc disorders		1	
Thoracic, thoracolumbar, and lumbosacral intervertebral disc disorders	2	4	2
Adhesive capsulitis of shoulder		2	1
Medial epicondylitis (elbow)	2	2	
Lateral epicondylitis (elbow)		2	2
OTHER DISEASES	**4**	**2**	**0**
Toxic liver disease	3	1	
Haemolytic anemia		1	
Toxic psychosis	1		

To comply with the commitments of the Republic of Bulgaria to the European Union in terms of the statistics of the occupational diseases the NSSI provided to Eurostat the data about the reference years 2007, 2008 and 2009.

Please, be informed also that at a meeting held on 15-16 October 2009 the Health and Safety at Work Statistics Working Group made decision to stop the Eurostat dissemination of the data on the occupational diseases at the EU level. The reasons thereof are the existing problems in terms of the reliability and comparability of the data - large differences in the number reported by the various countries (even if the number of population is comparable), low level of recognition and reporting of the cases and differences in the recognition procedure and reporting concepts (recognised cases or reported cases). In this regard, data about the cases of occupational diseases recognised in Bulgaria for the period after 2009 have not been sent to Eurostat.

We should note that the National Social Security Institute has never been affiliated to the Ministry of Health, as mentioned in the attached conclusions of the European Committee of Social Rights.

The National Social Security Institute is a public institution which manages the state social security in the Republic of Bulgaria. It administers the compulsory insurance for sickness and maternity, unemployment, accidents at work and occupational diseases, invalidity, old age and death and is the competent Bulgarian authority regarding the implementation of the rules on coordination of the social security schemes and international agreements on the social security with respect to the cash benefits for sickness and maternity, death grants, unemployment benefits and old-age, invalidity and survivors' pensions.

The National Social Security Institute reports its activities to the National Assembly of the Republic of Bulgaria. Its supreme governing body is the Supervisory Board which consists of representatives of the state and representatives of employers' organisations and trade unions at national level. The institution is a member of the International Social Security Association (ISSA).

RESC 3§3 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

49. The representative of Lithuania provided the following information in writing:

The Law Amending and Supplementing Articles 2, 4, 42, 43, 44, 45 of the Law on Safety and Health at Work and the Law on Amending Articles 281 and 282 of the Labour Code were adopted on 23 December 2013 and came into force on 1 May 2014. According Commission Regulation (EU) No 349/2011 of 11 April 2011 implementing Regulation (EC) No 1338/2008 of the European Parliament and of the Council on Community the above mentioned Laws revised the notions, legal regulation of investigation of occupational accidents seeking to achieve systemic approach and consistency of concepts and procedures, and detailed investigation and prevention of all accidents during which employee experiences harm to his health. Implementing the above Laws, the Government resolutions amending Regulations of Investigation and Recording of Labour Accidents and Regulations of Investigation and Recording of Occupational Diseases are drafted.

Recognizing that the incidence rate for the occupational accidents in the Republic of Lithuania is excessively low compared to the average rate in the EU-27, it should be noted that the legislation (The Law on Safety and Health at Work of the Republic of Lithuania, Regulations on Investigation and Recording of Labour Accidents) obligate the employee and the employer to declare the State Labour Inspectorates (hereinafter referred to as 'the SLI') about the accident at work. Also social benefits for the days lost due to the accident at work are paid when the accident is investigated and the accident investigation documents are submitted to SLI and the State Social Insurance Fund Board local office. Thus report about occupational accidents is directly related to the right of the injured person to claim social benefits for the days lost due to the accident at work. It should also be noted that the ratio of all accidents and fatal accidents, remains relatively constant (in 2008 it was about 41, 2009 - 42, 2010-46, 2011 - 52) and the number of complaints and inquiries, related to the accidents at work evasion, submitted to SLI, is very low - up to 1 % (calculating from all accidents at work). So, considering the above mentioned, SLI has no grounds to state that the low incidence rate of occupational accidents in Lithuania directly leads to or is caused by the possible under-reporting of occupational accidents.

It also should be noted, that in Lithuania non-fatal accidents at work are divided into severe and minor accidents at work. The Law on Safety and Health at Work of the Republic of Lithuania provides that SLI investigates all fatal and severe accidents at work (those, which personal health care physician assigned to severe in accordance with procedures, approved by Minister of Health). Minor accidents at work (those that are not considered to be severe) are investigated by the employer's confirmed bilateral commission composed from workers' representative with specific responsibility for the safety and health and the employer's representative. Therefore, in accordance with above mentioned statutory provisions, SLI investigates in average about 7-8% of all accidents at work.

Interpreting the discrepancy between figures on fatal accidents at work, should be noted that in according to the European Commission Regulation No. 349/2011, SLI transmits to the Commission (Eurostat) microdata on persons who had an accident in the course of work during the reference period and the associated metadata. Microdata and metadata are transmitted for investigated accidents at work. In Lithuania in 2008 total number of fatal accidents at work in all NACE-rev2 branches were 81, while in 2010 – 50 fatal accidents at work. However, in order to assess the situation in the same way in different countries Eurostat in addition to general indicators asks, for special rates. For example in metadata template specified by the EUROSTAT member states should submit information about total number of fatal accidents at work in the 13 common branches (A, C, D, E, F, G, I, J, K, L, M, N), NACE-rev2 (1) (3) (including NACE D but excluding NACE H) and number of traffic accidents. In 2008, number of fatal accidents at work in the 13 common branches in Lithuania was 48, with traffic accidents in these branches - 0 (48 - 0 = 48). 2010 number of fatal accidents at work in the 13 common branches was 36, with traffic accidents in these branches - 1 (36 - 1 = 35). In calculating incidence rates of the fatal accidents at work these figures are taken.

Interpreting the number of business enterprises monitored by SLI, it should be noted that SLI has created enterprises risk assessment methodology and has implemented enterprises risk assessment model in 2010 - 2012. Currently SLI monitoring visits to enterprises are planned and carried out in accordance with the above-mentioned instruments. Using these instruments, the enterprises risk profile for danger accidents at work occur is assessed in the complex measuring 60 risk criteria. So currently SLI inspects enterprises with the major risk for accidents at work.

Interpreting the number of criminal convictions, it should be noted that in the event of a fatal or serious accident at work the parallel (to investigation that is carried out by SLI) preliminary investigation starts to determine whether there has been a criminal offense provided in the Article 176 of the Criminal Code of the Republic of Lithuania. This investigation is carried out by the investigating authorities (the police), led by the prosecutor. When investigation carried out by SLI is completed, SLI submits accident at work investigation documents to the prosecutor's office. The prosecutor estimated the pre-trial investigation and SLI collected material and decides whether to institute criminal proceedings or to discontinue an investigation. SLI does not influence the prosecutor's decision. The prosecutor's office which decides to terminate an investigation because there has been no a criminal offense, inform SLI and SLI inspector decides whether to bring guilty persons to administrative responsibility.

RESC 3§3 REPUBLIC OF MOLDOVA

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

- the occupational accident reporting system is inefficient;
- measures taken to reduce the excessive number of fatal accidents are insufficient;
- the labour inspection system is inefficient.

50. The representative of the Republic of Moldova provided the following information in writing:

Dans le système national de sécurité et santé de travail le contrôle de l'application de la législation du travail, de la sécurité et de la santé de travail est exercé par l'Inspectorat d'Etat de Travail subordonné au Ministère du Travail, de la Protection Sociale et de la Famille

.

La recherche des accidents de travail, de façon établie par le Gouvernement, est l'une des attributions de l'Inspectorat d'Eta de Travail.

La recherche des accidents de travail et leurs statistiques

La recherche des accidents des travail est effectuée en conformité avec le Règlement sur le mode de recherche des accidents de travail, approuvé par la Décision du Gouvernement n 1361 du 22 décembre 2005 et a comme but la classification, la détermination des circonstances, des causes et des violations des actes normatifs qui ont provoque l'accident des salaries, identification des personnes qui ont viole les prévisions des actes normatifs et des mesures appropriées pour prévenir des événements similaires.

Ce Règlement oblige l'employeur de communiquer immédiatement la production des accidents de travail à l'Inspectorat d'Etat de Travail et d'assurer leur recherche. Ce Règlement établit que les accidents avec une incapacité temporaire de travail peuvent être recherchés par l'employeur, et les accidents de travail graves et mortels sont recherchés par les inspecteurs de travail. En vertu de ce Règlement l'employeur est obligé à rapporter annuellement sur les accidents de travail produits dans son entreprise à l'autorité de statistiques.

A cause des déficiences de sécurité, annuellement, selon les statistiques, un nombre plus grand de 50 accidentes est enregistré provenant des accidents de travail.
En 2013, en comparaison avec 2012 le nombre des accidents de travail mortels a augmenté - avec 6 accidents et 8 personnes, et le nombre des accidents de travail graves a augmenté avec 12 cas et 18 personnes accidentées de manière grave.
Annuellement les inspecteurs de travail recherchent environ 200 accidents de travail. Au cours de 2013 et pendant les mois de janvier-avril 2014, l'Inspectorat d'Etat de Travail a été notifié concernant 587 accidents (y compris 13 accidents subis pendants les années précédentes)
Le Directeur de l'Inspectorat d Etat de Travail a disposé la recherche de 28 accidents de travail, suite auxquels 259 personnes ont souffert. Les commissions de recherche des entreprises ont recherché 359 accidents avec incapacité temporaire de travail.

Les dossiers de recherche des accidents de travail graves et mortels 213 rédigés par les inspecteurs de travail pendant les années 2012 - 2013, ont été remis aux organes de poursuite pénale pour être examinés sous l'aspect pénal en conformité avec l'art.183 du Code Pénal.
Les organes de poursuite pénale ont:
- intente des procédures pénales concernant 10 dossiers;
- soumis devant les instances judiciaires 3 dossiers pénaux;
- classes 7 dossiers;
Les instances judiciaires ont:
- en cous d'examen 2 dossiers pénaux;
- émis 1 sentence de condamnation conformément à l'art. 183 du Code pénal;
Les autres dossiers soumis aux organes de poursuite pénale sont à différents étapes du procès d'examen sous l'aspect pénal.
Pour sensibiliser les parties concernées de l'assurance des conditions de sécurité et de santé au travail, l'Inspectorat d'Etat de Travail informe par différents types de mass-média sur les prévisions de la législation et sur les modalités de respect de celles-ci.
Au cours de plusieurs années l'Inspectorat d'Etat de Travail organise, réalise et participe aux différentes entrevues avec les représentants des autorités publiques locales, avec les représentants du milieu des affaires ou l'on discutait différentes situations relatives à la Loi de la sécurité et la santé au travail, à l'assurance des conditions de travail non-dangereuses et inoffensives et à la prévention des accidents de travail.

En vue d'assurer le respect les exigences de sécurité et de santé au travail l'Inspectorat d'Etat de Travail coopère avec la Confédération nationale des Employeurs et avec la Confédération nationale des Syndicats de Moldova et avec d'autres institutions concernées.

On a élaboré un programme automatisé d'évidence des activités de l'inspection qui est actuellement est soumis à la procédure de test. Les moyens financiers ont été alloués et l'on est en train d'effectuer les acquisitions des équipements de traitement automatisé des données pour les inspecteurs.

Suite à la signature de l'Accord d'Association avec l'Union Européenne, dont l'annexe contient environ 30 directives concernant la sécurité et la santé au travail avec un délai de mise en œuvre de 3 à 10 ans, un Plan national d'Actions de mise en œuvre de l'Accord d'Association pour les années 2014-2016 a été approuvé, couvrant les directives à implémenter au cours de 3 ans.

Jusqu'à présent _4__ directives ont été déjà transposées concernant les exigences minimales pour la protection contre différents risques. L'information détaillée sur la mise en œuvre du Plan cité sera présenté dans le rapport suivant.

RESC 3§3 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

51. Additional information is to be provided in the next National Report.

RESC 3§3 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 3§3 of the Charter on the grounds that measures to reduce the excessive rate of fatal accidents are inadequate.

52. The representative of Romania provided the following information in writing:

Regarding the differences in absolute numbers on the people injured at work published by Eurostat and the ones recorded by the Labour Inspection, as they are mentioned in these findings, we mention that the data of the Labour Inspection included in the activity report of the institution for 2010, refers to the total number of injured at work. The mentioned Eurostat data excludes people injured in traffic and the ones occurred on the board of a mean of transport during the working process, also reporting to just some of the activities of the national economy (NACE Rev. 2, A, C – N, excluding H). We also mention that the differences between these data can occur because the information to Eurostat are transmitted with a difference of two years of the reference year for which these data are reported.

Regarding the frequency index of fatal work accidents referred to in the ECSR conclusions, we mention that Labour Inspection sends to the National Institute of Statistics the data on work accidents by highlighting the RTA variable - Road Traffic Accidents, starting with the ones since 2011. Thus, for the reference period 2008 – 2010, in the data sets transmitted by the Labour Inspection at the request of the National Institute of Statistics, there were no clear criteria of selecting the record on the traffic accidents and the ones occurred on board of a mean of transport during the working process.

At the same time, referring to the measures taken to reduce the frequency index of fatal work accidents, we mention that the Labour Inspection aligned to the provisions of the Community Strategy 2007-2012 on work health and safety, whose primary objective was to reduce by 25% the total rate of incidence of work accidents.

Thus, the activity of the Labour Inspection are conducted on a Framework Action Programme which is set annually, taking into account:
- The burden of the institution of the Government program;
- Priorities and objectives identified on national and Community level for the activity fields of the institution;
- Control results of the labour inspectors;
- Analysis of the statistical data on work accidents and occupational morbidity in previous years.

In the field of work health and safety, the annual Framework Action Programme of the Labour Inspection usually covers awareness and control campaigns on specific risks identified as priority on national and Community level, and also control actions for the implementation of legislation in those activity fields where there was an increased incidence of work accidents.

In this regard, based on the analyses of the work accidents occurred, there were included in the framework action programmes of the Labour Inspection, during the reference period, both actions of awareness and also control actions in fields with a high incidence of work accidents, such as construction, transportation, forestry etc. The results of these actions are included in the annual activity reports of the Labour Inspection, available on the website of the institution (www.inspectmun.ro), in the section Reports.

We mention that, according to the provisional statistical data recorded at the Labour Inspection, the dynamics of fatal work accidents in the recent years show a decline in their numbers, in 2013 being recorded by the end of February 2014, in all economical activities, 199 fatal work injuries, which number includes those injured in traffic work accidents and occurred on board of a means of transport during the working process.

Regarding the ECSR statement that “because entrusting the employers the activity of investigation of all less serious work accidents and the low level of fines in these situations, the reporting system of the accidents is not sufficiently effective in practice, to meet the requirements of article 3§3 of the Charter”, we make the following remarks:

Under the legal provisions on communication, investigation, registration and reporting of the events, according to the provisions of art. 27 of the work health and safety Law no. 319/2006, the employer is obligated to communicate the events, as soon as possible, as follows:
a) to the territorial work inspectorates, all events;
b) to the insurer, according to the Law no. 346/2002 on the insurance against work accidents and occupational diseases, with the subsequent amendments and supplements, the events followed by temporary work incapacity, disability or death, at their acknowledgement; (...).

Breaching the legal provisions from above regarding the communication constitutes a contravention and is punishable by a fine of 3.500 lei to 7.000 lei.

Subsequent to the communication, according to art 29 of the Law no. 319/2006, the investigation of the events is mandatory and is conducted as follows:

a) by the employer, if the events cause temporary work incapacity (the employer shall appoint a committee composed of at least three persons);
b) by the territorial labour inspectorates, when the events caused obvious or confirmed disability, death, collective accidents, dangerous incidents, when the events caused temporary work incapacity to workers of individual employers, and also in people missing situations;
c) by the Labour Inspection, in the cases of collective accidents, generated by some special events, such as crashes or explosions;
d) by the territorial public health authorities, when occasional diseases or work related diseases are suspected.

Breaching the legal provisions from above regarding the investigation (lett. a) constitutes a contravention and is punishable by a fine of 4.000 lei to 8.000 lei.

We note that in the cases when the investigation is conducted, according to the legal provisions, by the committee appointed by the employer, the investigation file will be submitted for review and approval at the territorial labour inspectorate under which jurisdiction the event took place. The territorial labour inspectorate analyses the file, approves it and returns it to the employer. If the territorial labour inspectorate finds that the investigation was not done properly, may dispose the completion of the file and/or to remake the investigation's minutes, where necessary (art. 125 para. 1, 2, 4 of the Rules of application of the provisions of the Law no. 319/2006, with the subsequent amendments and supplements).

After completing the investigation and receiving the approval of the investigation file, the work accident is recorded based on the Work Accident Recording Form and reported by the employer to the territorial labour Inspectorate, and also to the insurance company, according to the law (art. 32, para. (2) of the Law no. 319/2006).

Breaching the legal provisions mentioned above regarding the record and the report of the accident constitutes a contravention and is punishable by fine of 4.000 lei to 8.000 lei.

Taking into account the situations above, in case of non compliance with the legal provisions on the communication, investigation, record and report of the work accidents, the employer may be sanctioned several times, according to his deeds.

RESC 3§3 RUSSIAN FEDERATION

The Committee concludes that the situation in Russian Federation is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

53. The representative of the Russian Federation provided the following information in writing:

In accordance with the Regulation on exercising the federal state supervision of compliance with the labour legislation and other regulatory legal acts containing standards of labour law, approved by Decree of the Government of the Russian Federation No. 875 dated September 1, 2012 , the federal state supervision of labour conditions and compliance with the legislative requirements is exercised, in conformity with the provisions of the labour inspection conventions adopted by the International Labour Organization and ratified by the Russian Federation, the Labour Code of the Russian Federation, other federal

laws, the Regulation approved by the said Decree and other resolutions of the Government of the Russian Federation, by:

- Head of the Federal Service for Labour and Employment, Chief State Labour Inspector of the Russian Federation;
- Deputy Head of the Federal Service for Labour and Employment, Deputy Chief State Labour Inspector of the Russian Federation;
- head of structural subdivision of the central administrative office of the Federal Service for Labour and Employment, Deputy Chief State Labour Inspector of the Russian Federation;
- deputy head of structural subdivision of the Federal Service for Labour and Employment, Chief State Labour Rights Inspector of the Russian Federation;
- deputy head of structural subdivision of the Federal Service for Labour and Employment, Chief State Labour Protection Inspector of the Russian Federation;
- heads of departments of structural subdivision of the Federal Service for Labour and Employment, responsible for the organization and conduct of the federal state supervision of labour conditions and compliance with the legislative requirements, their deputies being chief state labour inspectors;
- chief state labour inspectors, senior state labour inspectors, state labour inspectors of departments of structural subdivision of the Federal Service for Labour and Employment;
- heads of the state labour inspectorates, chief state labour inspectors in the relevant constituent entities of the Russian Federation;
- deputy heads of the state labour inspectorates, deputy chief state labour inspectors in the relevant constituent entities of the Russian Federation Federation (by the scope of responsibilities);
- heads of supervision and control departments of the state labour inspectorates, their deputies being chief state labour inspectors in the relevant labour inspectorates;
- chief state labour inspectors, senior state labour inspectors, state labour inspectors of state labour inspectorates (hereinafter referred to as the state labour inspectors);

The issues that are subject to the federal state supervision include the compliance of employers, in the course of their business activities, with the requirements of the labour legislation and other regulatory legal acts containing standards of labour law (hereinafter referred to as the mandatory requirements), including the payment of salaries in full and in due time, compliance with the national labour protection regulatory requirements as well as fulfillment of the requirements contained in the instructions issued by supervisory bodies to rectify the violations identified in the course of the federal state supervision of labour conditions and compliance with the legislative requirements and to take measures aimed at the prevention of violations of the mandatory requirements and protection of the labour rights of workers.

The federal state supervision of labour conditions and compliance with the legislative requirements is exercised through conducting scheduled and unannounced inspections, issuing mandatory instructions to rectify the violations, drawing up reports on administrative offenses within the powers of the state labour inspectors, preparing other materials (documents) to hold the violators liable in accordance with the federal laws and other regulatory legal acts of the Russian Federation;

The scheduled and off-scheduled inspections are conducted in the form of inspections of documents and (or) on-site inspections conducted in accordance with the procedure established by Federal Law No. 294-FZ “On protecting rights of legal entities and individual entrepreneurs in the course of exercising control (supervision) by state and municipal authorities” dated December 26, 2008, and taking into account the specifics provided for in the Labour Code of the Russian Federation.

The scheduled inspections are conducted by state labour inspectors not more often than every 3 years in accordance with the annual plans developed within the powers of the Federal Labour Inspectorate.

The grounds for conducting an unannounced inspection can be the following:

a) expiration of the time period within which the employer was supposed to fulfill the requirements contained in the instructions issued by state labour inspectors to rectify the violations identified;

b) receipt by the Federal Labour Inspectorate of:

complaints and appeals of citizens, including individual entrepreneurs and legal entities, information from public authorities (officials of the Federal Labour Inspectorate and other federal executive authorities exercising the state control (supervision), local authorities, trade unions and the mass media about violations by employers of the mandatory requirements, including violations of the labour protection requirements that caused a threat to life and health of workers;

complaints from workers about violation of their labour rights by employers;

request from workers for conducting inspection of working conditions and labour protection at their workplaces in accordance with Article 219 of the Labour Code of the Russian Federation;

c) an order (directive) to conduct an off-scheduled inspection issued by Head (Deputy Head) of the Federal Service for Labour and Employment or State Labour Inspectorate pursuant to the instruction of the President of the Russian Federation or the Government of the Russian Federation or in accordance with a formal request of the public prosecution service to conduct, within the framework of the compliance supervision procedure, an unannounced inspection based on the information contained in the documents and complaints received by the public prosecution bodies.

Activities of the labour protection services at the enterprises with less than 50 workers where the labour protection function is either performed by the employer or assigned to one of the workers or to the organization providing services in the sphere of labour protection are also monitored by state labour inspectors within the scope of supervisory activities on conducting scheduled and unannounced inspections of relevant enterprises.

According to the Federal State Statistics Service, in 2013 the total number of people injured at work in the constituent entities of the Russian Federation, as well as the number of women and workers under the age of 18 injured at work, decreased.

More specifically, 35,590 people were injured at work in 2013, which is 11.8% less than in 2012 (40,370 people), 18.3% less than in 2011 (43,590 people) and 4.1 times less than in 2001 (144,700 people).

In 2013, 10,600 women were injured in occupational accidents, which is 10.2% less than in 2012 (11,800 women), 17.8% less than in 2011 (12,900 women) and 3.2 times less than in 2001 (34,300 women).

In 2013, 38 workers under the age of 18 were injured in occupational accidents, which is 7.3% less than in 2012 (41 workers), 10.5% more than in 2011 (34 people) and 1.7 times less than in 2001 (64 workers).

In 2013, the total number of people injured in occupational accidents amounted to 1.7 per 1,000 workers, which is 22.7% less than in 2011 (2.2) and 3 times less than in 2001 (5.1).

According to the Federal Service for Labour and Employment, the recent positive tendency towards reduction of the absolute number of severe occupational accidents, including fatal accidents was successfully maintained in 2013.

9,216 severe occupational accidents occurred in 2013, which is 852 accidents less than in 2012 and 15.6% less than in 2011 (10,923 accidents). In 2013, two thirds of severe occupational accidents occurred in processing industries (1,895 accidents), construction (1,530 accidents), transport and communications (771 accident), agriculture, hunting and forestry (788 accidents).

In 2013, according to the Federal Service for Labour and Employment, 2,757 workers in the Russian Federation died in occupational accidents that occurred in organizations of all types of economic activities, which is 242 workers or 8.1% less than in 2012 (2,999 workers), 14.3% less than in 2011 (3,220 workers) and 2.27 times less than in 2001 (6,194 workers).

In 2013, according to the Social Insurance Fund of the Russian Federation, there were registered 49,939 occurrences of the insured events involving workplace injuries, which is 11.0% less than in 2012 (6,177 occurrences).

However, it should be noted that the figures representing the workplace injuries rate according to the Federal State Statistics Service, the Federal Service for Labour and Employment and the Social Insurance Fund of the Russian Federation may differ. It stems from the fact that the Federal State Statistics Service collects data on selected economic activities (mining, processing industries, transportation, communications, etc.) whereas the Federal Service for Labour and Employment and the Social Insurance Fund of the Russian Federation collect data on all economic activities. The difference can also be explained by the fact that the Federal State Statistics Service receives the data from employers whereas the Federal Service for Labour and Employment develops its data based on the results of investigating the accidents reported by employers and based on the complaints submitted by victims of occupational accidents or relatives of those who died in occupational accidents (covered-up occupational accidents).

We also note that the statistics show the number of people killed at work but not the number of fatal occupational accidents.

In the complete list of the causes of the severe occupational accidents that occurred in the Russian Federation in 2013, 75.5% of the accidents occurred due to typical reasons of organizational nature and the so-called “human factor”: unsatisfactory organization of work, violations of the safety requirements, inadequate provision of training in occupational safety to workers and violations of the labor discipline. For instance, almost every third (30.7%) occupational accident in 2013 was caused by unsatisfactory organization of work.

Technological and technical (technogenic) factors were the causes of 8.0% of the severe occupational accidents.

In 2013, in accordance with the established procedure, the state labour inspectors (in their capacity as chairpersons of accident investigation commissions and (or) inspectors) investigated 12,538 occupational accidents (14,400 in 2011), including 571 group occupational accidents (653 accidents in 2011), 6,230 severe occupational accidents (7,554 accidents in 2011) and 4,825 fatal occupational accidents (4,928 accidents in 2011).

Moreover, the state labour inspectors exercised systematic monitoring, supervision and control of compliance with the established procedure for conducting investigations and keeping records of occupational accidents. In 2013, the state labour inspectors conducted over 7,900 inspections of compliance by employers with the requirements of Articles 228, 229 and 230 of the Labour Code of the Russian Federation (13,100 in 2011), which resulted in identification and rectification of over 18,500 violations (34,800 in 2011).

In 2013, in the course of the systematic activities aimed at identifying the cases of covering up occupational accidents by employers, officials of the Federal Labour Inspectorate identified and investigated, in accordance with the established procedure, 1,112 covered-up occupational accidents (8.9% of the total number of the accidents investigated in 2013), including 278 fatal occupational accidents. Compared with 2012, their number decreased by 374 and 60 accidents, respectively. In the past 5 years, the total number of the covered-up occupational accidents identified is decreasing by 11-15% per year. The number of covered-up fatal occupational accidents identified also decreased (except for 2012, when their number increased by 22 accidents), though accounting for 12-13% of the total number of fatal occupational accidents.

The most frequently occurring violations of the procedure for investigating, documenting and maintaining records of occupational accidents established by Articles 227-231 of the Labour Code of the Russian Federation and the Regulation on investigating occupational accidents in certain industries and organizations were:

- failure of the employers to meet the established deadlines for investigation of occupational accidents;

- failure to comply with the established procedure for sending notices of the group occupational accidents occurred, severe accidents and fatal accidents to the agencies and organizations listed in Article 228 of the Labour Code of the Russian Federation and, as a result, investigation of the said accidents by the commissions of improper composition;

- discrepancy between the causes of the occupational accidents identified in the course of the investigation and the actual circumstances of the accidents;

- putting the unjustified blame for an accident on the accident victim (especially when minor accidents are investigated by in-house commissions of organizations) and, as a consequence, unjustified release from the liability of the officials of the organizations liable for violations of the national regulatory labour protection requirements that were the true causes of the accidents;

- failure to comply with the established procedure for documenting the investigations, including occupational accident reports;

- unjustified determining that the accident should be qualified as a non-occupational accident.

In 2013, for the purpose of ensuring the right of citizens to the working conditions that meet safety and hygienic requirements, the state labour inspectors conducted over 57,500 inspections of compliance with the labour protection requirements (69,500 in 2011), which identified over 404,300 violations of the labour rights of workers (549 ,000 in 2011).

According to the Federal State Statistics Service, the proportion of the workers in the key industries (mining, processing industries, construction, transport, communications) whose working conditions did not meet hygienic and sanitary standards was 27.5% as of the beginning of 2010, 31.8% in 2012 and 32.2% in 2013. The aforesaid suggests a slowdown in the proportion growth rate, which, in combination with the preventive actions taken to ensure compliance with the labour protection requirements, will allow for a decrease in the rate.

According to the actual results of the supervisory and control activities, the most frequently committed violations, out of the total number of the violations identified by the state labour inspectors, are the violations of the requirements that concern the provision to workers of labor protection training and briefing them on occupational safety issues. In 2013, the state labour inspectors conducted about 26.6 thousand targeted inspections of compliance by employers with the requirements of Articles 212 and 225 of the Labour Code of the Russian Federation that concern the conformity with the established procedure for training, briefing and testing the knowledge of labour protection requirements, which identified over 143.7 thousand violations (181.9 thousand in 2011).

The most common violations of the labour legislation in this respect include the failure by managers and specialists to pass the labour protection requirements test and authorization for unsupervised work without receiving by workers of training in labour protection requirements, testing their knowledge and completing the apprenticeship at the workplace.

Based on the results of the inspections and pursuant to the official requests of the state labour inspectors, 95,700 workers were suspended from work in 2013 (93,200 in 2011) due to their failure to undergo training and briefing on labour protection issues, complete the apprenticeship at the workplace and pass the tests.

In 2013, the state labour inspectors conducted about 17,8 00 targeted inspections (17,200 in 2011) of compliance with the requirements of Articles 221 of the Labour Code of the Russian Federation on providing workers with special clothing, special footwear and other personal and collective protection equipment, which identified 50,400 violations (53,400 in 2011).

Based on the results of the inspections, 128,430 items of personal and collective protection equipment were taken out of service (111.8 in 2011) since they did not have the certificates of conformity or did not meet the labour protection requirements.

In 2013, the identified violations of the labour protection requirements that present a direct threat to life and health of workers were the grounds for issuing and submitting to courts, in accordance with the provisions of Article 27.16 of the Administrative Offences Code of the Russian Federation, of violation reports that impose a temporary ban on the operations of 293 structural subdivisions and production sites (164 in 2011) and the use of 1,775 assembly units, facilities, buildings and structures (1,222 in 2011).

In 2013, based on the results of investigating occupational accidents and in accordance with the established procedure, the officials of the Federal Labour Inspectorate submitted over 9,200 cases (10,755 in 2011) to the investigative and prosecutorial agencies (which accounts for 87.3% of the total number of the cases submitted to the investigative and prosecutorial agencies in 2013) to consider imposing criminal liability on the officials responsible for the violations of the labour legislation that caused occupational accidents, and 224 criminal proceedings were initiated (221 in 2011). The criminal proceedings resulted in convicting 30 offenders of the crime described in Article 143 of the Criminal Code of the Russian Federation (41 in 2011).

The Federal Service for Labour and Employment does not provide the statistics on the number of the workers affected by inspections and decisions of labour inspectorates.

As for the Federal Service for Labour and Employment, its activities are currently governed by the Regulations on the Federal Service for Labour and Employment approved by Decree of the Government of the Russian Federation No. 324 dated June 30, 2004.

The Federal Labour Inspectorate is a centralized system consisting of a federal executive body authorized to exercise the state supervision of compliance with labour legislation and other regulatory legal acts containing standards of labour law (the State labour inspectorates).

The information about the budget and the total staff number of the Federal Labour Inspectorate is given below:

AVERAGE MONTHLY SALARY OF EMPLOYEES OF TERRITORIAL BODIES

Indicators	2009	2010	2011	2012	2013
Including the northern hardship allowance and area coefficients	25,150	26,281	21,836	23,706	26,385
Excluding the northern hardship allowance and area coefficients	21,134	22,085	18,349	19,921	22,172

TRENDS IN THE NUMBER OF EMPLOYEES OF THE STATE LABOUR INSPECTORATES

Indicators	2009	2010	2011	2012	2013
Regular staff numbers	3,593	3,593	3,413	3,233	2,889
Average staff numbers	3,462	3,428	3,230	2,932	2,633
including inspectors	3,241	3,211	3,014	2,742	2,460
% of the staff number, as at the end of the year	96 %	93 %	93 %	89 %	91 %

Detailed information about compliance with the procedural guidelines developed by the Federal Service for Labour and Employment for the Federal Labour Inspectorate divisions, which conduct inspections of the organizations accredited to provide services in the field of labour protection, is given in Appendix 1.

Control and supervision of compliance with the occupational hygiene requirements are exercised by the Federal Supervision Agency for Customer Protection and Human Welfare. Federal Law No. 52-FZ “On the Sanitary and Epidemiological Well-being of the Population” dated March 30, 1999, establishes the rights, duties and responsibilities of the Federal Supervision Agency for Customer Protection and Human Welfare officials that exercise the federal state sanitary and epidemiological supervision, including in the sphere of occupational hygiene (compliance with the requirements applying to working conditions, organization of medical examinations, etc.).

In particular, pursuant to the provisions of Article 44 of the said law, the federal state sanitary and epidemiological supervision includes, without limitation, the following:

- organizing and conducting inspections of the compliance by the bodies of state power and the local government bodies as well as by legal entities, their heads and other officials, individual entrepreneurs, their authorized representatives (hereinafter referred to as the legal entities, the independent entrepreneurs) and by the citizens with the requirements of the sanitary legislation, sanitary and antiepidemic (preventive) measures, orders issued by the officials exercising the state federal sanitary and epidemiological supervision;

- organizing and carrying the verification checks on the conformity of the goods traded by legal entities and individual entrepreneurs with the requirements of the technical regulations, the compliance with which is subject to the state supervision carried by the federal executive body authorized to exercise the state sanitary and epidemiological supervision;

- using, in accordance with the procedure established by the legislation of the Russian Federation, the measures to eliminate the identified violations of the requirements of the sanitary legislation and technical regulations and/or eliminate the consequences of such violations, issuing the orders to eliminate the identified violations of the requirements of the sanitary legislation and technical regulations and prosecute the persons who committed such violations;

- issuing the orders to take sanitary and antiepidemic (preventive) measures;

- systematic monitoring of compliance with the requirements of the sanitary legislation, analyzing and making predictions on the compliance status in respect to the compliance with the requirements of the sanitary legislation and technical regulations by the bodies of state power, local government bodies, legal entities, individual entrepreneurs and citizens in the course of their activities;

- federal statistical monitoring in the sphere of promoting the sanitary and epidemiological well-being of the population in accordance with the procedure established by the federal executive body exercising normative and legal regulation in the sphere of sanitary and epidemiological well-being of the population, including monitoring of the morbidity of communicable and common non-communicable diseases (poisonings) caused by the adverse effect of environmental factors, which includes collecting the data on the incidence of the diseases (poisonings) caused by the use of the products that do not conform with the sanitary and epidemiological requirements as well as developing open publicly available government information resources in the sphere of sanitary and epidemiological well-being of the population;

Article 46 of Federal Law No. 52-FZ “On the Sanitary and Epidemiological Well-being of the Population” dated March 30, 1999, stipulates that the federal state sanitary and epidemiological supervision is exercised by agencies and institutions that constitute a unified federal centralized system:

- the federal executive body authorized to exercise the state sanitary and epidemiological supervision;

- the federal executive body authorized to exercise the state sanitary and epidemiological supervision in the selected industries with extremely hazardous working conditions and within the selected territories of the Russian Federation specified in the list, which is subject to approval by the Government of the Russian Federation;

- territorial bodies of the said federal executive bodies established to exercise the federal state sanitary and epidemiological supervision in the constituent entities of the Russian Federation, municipalities and in the transportation industry as well as in the selected industries with extremely hazardous working conditions and within the selected territories of the Russian Federation specified in the list, which is subject to approval by the Government of the Russian Federation;

- structural subdivisions of the federal executive bodies dealing with the issues of defense, internal affairs, security, justice, control over trafficking of drugs and psychotropic substances, exercising the federal state sanitary and epidemiological supervision in the Armed Forces of the Russian Federation, other troops, military units, at the defence facilities and defence production facilities, security facilities and other special purpose facilities;

The structure, powers and functions of the federal executive body exercising the state sanitary and epidemiological supervision and the procedure for exercising the said supervision are set by the Government of the Russian Federation.

The structure, powers, functions and procedures of the federal state agencies and federal state unitary enterprises for the purpose of ensuring the federal state sanitary and epidemiological supervision are set by the authorized federal executive bodies in charge of the said agencies and enterprises.

Pursuant to the provisions of Article 50 of Federal Law No. 52-FZ dated March 30, 1999, the officials exercising the state sanitary and epidemiological supervision are entitled, while in the execution of their duties and upon presentation of the official identity card in accordance with the procedure established by the legislation of the Russian Federation, to:

- receive from the federal executive bodies, executive bodies of the constituent entities of the Russian Federation, the local government bodies, individual entrepreneurs and legal entities the documented information on securing the sanitary and epidemiological well-being of the population disclosed pursuant to a written request filed on reasonable grounds;

- conduct sanitary and epidemiological expert examinations, investigations, inspections, researches, tests and other assessments;

- have an unconstrained access to and examine the territory, buildings, structures, facilities, premises, equipment and other sites in order to check the compliance by the individual entrepreneurs, persons performing managerial functions in business or other

organizations and officials with the sanitary legislation and implementation of the antiepidemic (preventive) measures at the said sites;

- take measurements of the habitat parameters in order to determine the conformity of such parameters with the sanitary regulations;

- draw up reports on violations of the sanitary legislation.

Upon identifying violations of the sanitary legislation as well as a threat of occurrence and spread of communicable and common non-communicable diseases (poisonings), the officials exercising the federal state sanitary and epidemiological supervision are entitled to issue the orders that are compulsory to comply with by the citizens and legal entities within the established deadlines, such as:

- orders to rectify the identified violations of the sanitary and epidemiological requirements;

- orders to stop trading the products that do not meet the sanitary and epidemiological requirements;

- orders to take sanitary and antiepidemic (preventive) measures;

Pursuant to the provisions of Article 51 of Federal Law No. 52-FZ dated March 30, 1999, heads and deputy heads of the bodies and organizations of the Federal Supervision Agency for Customer Protection and Human Welfare have the necessary range of powers to exercise the federal state sanitary supervision pursuant to the provisions of the effective legislation.

Administrative sanctions for the identified violations of the sanitary legislation are imposed in accordance with Federal Law No. 52-FZ “On the Sanitary and Epidemiological Well-being of the Population” dated March 30, 1999 and the Code of Administrative Offences of the Russian Federation.

The average amount of the fines imposed for violation of the legislation on labour and labour protection is specified in Article 5.27 of the Code of Administrative Offences of the Russian Federation.

It should be noted that there is an inconsistency in the information about the minimum amount of fine. Pursuant to part 1 of Article 5.27 of the Code of Administrative Offences of the Russian Federation (as in force since 2007), violations of the legislation on labour and labour protection are subject to an administrative fine imposed on the officials in the amount of 1-5 thousand rubles; on the persons conducting entrepreneurial activity without forming a legal entity in the amount of 1,000 -5,000 roubles; on legal entities in the amount of 30,000 -50,000 roubles.

According to the Federal Service for Labour and Employment, the average amount of a fine imposed in 2011 was 5,301 roubles (not 530.79 roubles) whereas the average amount of a fine imposed in 2013 was 9,528.3 roubles.

Thus, based on the legal precedents, the administrative fines imposed under this article of the Code of Administrative Offences of the Russian Federation are not always the maximum fines allowed by law. Also, a distinction should be made between the cases concerning the administrative offences under Article 5.27 of the Code of Administrative Offences of the Russian Federation and the fine imposed by court pursuant to Article 143 of the

Criminal Code of the Russian Federation and the amounts of these types of fines should be analyzed separately.

In addition to fines, the state labour inspectors apply the following sanctions: pursuant to the orders issued by the state labour inspectors, taking out of service the personal and collective protection equipment that does not have certificates of conformity or does not meet the labour protection requirements (including the requirements of the technical regulations); pursuant to the orders issued by the state labour inspectors, suspension from work of those workers who failed to undergo training and briefing on labour protection issues, complete the apprenticeship at the workplace and pass the tests on labour protection requirements; imposing a temporary ban on the operations of structural subdivisions and production sites and the use of assembly units, facilities, buildings and structures.

However, according to the Federal Supervision Agency for Customer Protection and Human Welfare, the administrative measures stipulated by the legislation do not always contribute to the general material (efficient) improvement of the working environment; the amounts of the existing sanctions do not always impose a heavy economic burden on employers and do not encourage them to invest funds in improving the working conditions and conducting the proper medical examinations.

The amendments already integrated into the Code of Administrative Offences of the Russian Federation do not cover all labour protection issues. In this regard, on June 9, 2014, at a meeting of the Government Commission on Public Health, the Federal Supervision Agency for Customer Protection and Human Welfare presented a proposal to set comparable amounts of administrative fines for the violations in this sphere in respect to all legally defined offences.

In connection with the adoption of the Federal Law No. 426-FZ “On the special assessments of working conditions” and for 2014, it is planned to prepare some sanitary legislation documents to be subsequently amended by the Federal Supervision Agency for Customer Protection and Human Welfare.

At the meeting of the Government Commission on Public Health held on June 9, 2014, it was noted that since 2015 the amounts of the administrative fines for violations of labour protection requirements will be increased, including such violations as the failure to conduct the special assessment of working conditions, failure to provide the workers with the protective equipment and giving the authorization to work to the persons who did not undergo the mandatory medical examination and briefing on the occupational safety rules. In addition, the criminal law was made more stringent with respect to the cases when the damage was caused through the fault of the employer and resulted in a loss of health or more serious consequences.

The occupational risks management system being introduced in some constituent entities of the Russian Federation will also contribute to preservation and improvement of the employed population health at the regional and enterprise levels.

The performance indicators of the Federal Service for Labour and Employment and its structural subdivisions show the high efficiency of its work, which during 15 years (2001-2014) made it possible to reduce in the Russian Federation the absolute workplace injuries rate by 3-4 times and the relative workplace injuries rate by 2-3 times and bring these rates closer to those of the leading European countries.

Appendix1

Appendix 1

Report on
the results of audits of the organizations accredited to provide services in the sphere of labour protection

No.	Discrepancies and violations of requirements, criteria and procedures of the accreditation	Name of the company accredited to provide services in the sphere of labour protection	Constituent entity of the Russian Federation	Note
.	Full name of the company does not match the name indicated in the Certificate of making an entry into the Unified State Register of Legal Entities.	"Center for labour protection LABOUR-EXPERT LLC	Tula Region	The name of the company is written in small letters, not capital letters, in the Quality manual of the testing laboratory for the working conditions assessment, in the field "Accreditation of the testing laboratory", in the passport of the testing laboratory for the working conditions assessment.
		Federal state healthcare institution "Center for hygiene and epidemiology for the Kirov Region" (FSHI "Center for hygiene and epidemiology for the Kirov Region")	Kirov Region	Since 13.05.2011 Federal publicly funded healthcare institution "Center for hygiene and epidemiology for the Kirov Region" (FBFHI "Center for hygiene and epidemiology for the Kirov Region").
2.	The legal address of the company is not the same as the address indicated in the application for accreditation, the actual legal address indicated in the Articles of Association of the company.	"Center for labour protection - Tula" LLC	Tula Region	The postcode indicated in the application for accreditation is incorrect.
		"Center for quality" LLC	Republic of Tatarstan	The postal address instead of the legal address is indicated in the application and in the Articles of Association of the company.
		"Scientific and technical center "Profattestat" LLC	Ryazan Region	The legal address indicated in the application for accreditation is incorrect: office 400/2, 20A Moskovskoye shosse, Ryazan, Ryazan Region, 390044

		Aspekt LLC	Krasnoyarsk Region	The extract from the Uniform State Register of Legal Entities contains an incorrect postcode.
		Ekonomproekt LLC	Ryazan Region	The legal address of the company: 14a Dzerzhinskogo st., Ryazan, 390013 These changes are registered by Interdistrict Inspectorate of the Federal Tax Service No. 6 for the Ryazan Region on 23.05.2011.
		The Republic Center for assessment and certification LLC	Republic of Buryatia	The legal address indicated in the Articles of Association of the company is incorrect.
		KOTLOSERVIS LLC	Ryazan Region	The legal address is not indicated in the application for accreditation.
		TEST CJSC	Moscow	The legal address is not indicated in the application for accreditation of the companies.
3.	The address indicated in the application for accreditation is not the same as the actual location address of the company.	"Center for labour protection - Tula" LLC	Tula Region	The postcode indicated in the application for accreditation is incorrect.
		"Regional public foundation for labour protection in communications organizations"	Saint-Petersburg	The postal address and location of the company indicated in the application for accreditation is not the same as the actual address: 61 Moika River Embankment, Saint-Petersburg, 191186
		Promekspertiza LLC	Tula Region	The actual location of the company is: 28a Rudneva st., Tula, 300012
		Center for quality LLC	Republic of Tatarstan	The actual location is: office 409, bld. 4, 34 Sibirsky Trakt st., Kazan
		TEST CJSC	Moscow	The actual address of the laboratory is not indicated in the application for accreditation of the companies.
4.	The information provided in the application for accreditation does not correspond to the actual information about the state registration number of the legal entity.	Aspekt LLC	Krasnoyarsk Region	Wrong Principle State Registration Number (1032402646767) is indicated in the application for accreditation of the company.
5.	The information indicated in the	TEST CJSC	Moscow	Certificate of registration with the tax authority is indicat-

	application for accreditation does not correspond to the certificate of making an entry into the Uniform State Register of Legal Entities or the information from it.			ed in the application for accreditation.
5.	The Articles of Association of the company do not contain the provision on performing the services that correspond to the List of labour protection services that require accreditation (Annex No. 1 to Order of the Ministry of Health and Social Development No. 205n dated 01.04.2010).	"Klin institute of labour protection and working conditions OLS-komplekt CJSC	Moscow Region	The Articles of Association do not contain the provision on exercising the functions of an occupational health service or occupational safety specialist of an employer with a total number of under 50 workers.
		Center for Expertise Assessment Certification - Magnitogorsk LLC	Chelyabinsk Region	The Articles of Association do not contain the provision on conducting the working conditions assessment and exercising the functions of an occupational health service or occupational safety specialist of an employer with a total number of under 50 workers.
		Research Institute of labour protection in the town of Ivanovo LLC (NIIOT for the town of Ivanovo LLC	Astrakhan Region	The Articles of Association of NIIOT for the town of Ivanovo LLC, approved by resolution No. 1 dated 29.03.2011, do not contain the provision specifying that the type of business of the company is exercising the functions of an occupational health service or occupational safety specialist of an employer with a total number of under 50 workers.
		Real estate agency STROP LLC	Volgograd Region	The Articles of Association of the company do not contain the type of activity "services in the sphere of labour protection".
		KOTLOSERVIS LLC	Ryazan Region	Subclause 9 of clause 1.8 "Types of core activities of the company" of Section I "General provisions" of the Articles of Association of the company states: "- provision of training in labour protection to heads of companies and members of the commission for testing knowledge", subclause 10 states: "- assessment and certification of workplaces conditions".

		State educational institution of supplementary vocational education Penza regional training and methodological center	Penza Region	The Articles of Association of the company do not contain the provision on performing the services that correspond to the List of labour protection services that require accreditation.
		Research and production enterprise Medical and Biological Technologies LLC	Kirov Region	The Articles of Association, approved by the resolution of the Founder dated 27.04.2000, clause 2.2 of Section 2 "Objectives and core activities" states: "The core activities of the Company include the provision of information, information and reference, fiduciary, agent, intermediary services in the sphere of labour protection to companies and citizens of the Russian Federation"
		Research Institute of labour protection in the town of Ivanovo LLC (NIIOT for the town of Ivanovo LLC	Ivanovo Region	The Articles of Association, approved by resolution No. 1 dated 29.03.2011, do not contain the provision specifying that the type of business of the Company is exercising the functions of an occupational health service or occupational safety specialist of an employer with a total number of under 50 workers.
		Regional labour protection agency LLC (RAOT LLC)	Volgograd Region	The Articles of Association of the company, approved by resolution No. 27 dated 23.10.2009, contain the provision on rendering the labour protection services in accordance with the Law of the Russian Federation No. 181-FZ "On the fundamental principles of labour protection in the Russian Federation" dated 17.07.1999, which lost effect due to adoption of Federal Law No. 90-FZ dated 30.06.2006.
7.	The company does not have the document library containing the effective legislative and other regulatory legal acts on labour	Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)	Chelyabinsk Region	The terms of the contract provide for paying the fee on a monthly basis according to the price list of the contractor, but in fact the fee was last paid in January 2011.

	protection as well as the reference documentation on labour protection necessary for the company to conduct its activities within the established scope of accreditation.	Federal state healthcare institution "Center for hygiene and epidemiology for the Kirov Region" (FSHI "Center for hygiene and epidemiology for the Kirov Region")	Kirov Region	Agreement No. 422-2011 dated 11.01.2011 for the provision of information services using Special Releases of the Consultant Plus System, the agreement is valid till 31.03.20011. Agreement No. 165-15/1 with the user of the information and search system Kodeks dated 01.04.2005, the agreement is valid till 31.03.2011.
		TEST CJSC	Moscow	The availability of the document library containing the effective legislative and other regulatory legal acts on labour protection as well as the reference documentation on labour protection is not proved in accordance with the established procedure.
3.	The company does not have any staff or non-staff specialists with a higher professional education, proved by a nationally recognized certificate, and the practical experience within the declared scope of accreditation, as well as with special training.	Certification center Prometheus LLC	Kemerovo Region	The actual laboratory personnel list does not correspond to the list contained in the Quality manual: no chemical engineer, the employer did not have in his possession the employment history book of the deputy head of the laboratory at the time of the audit and he resides in the city of Novokuznetsk. The specialists have not completed any special training.
		Novokuznetsk certification laboratory CENTRE for labour protection LLC	Kemerovo Region	To take measurements of chemical factor a consultant is invited. There is no chemical engineer or chemical technician in the staff list and actually in the laboratory.
		Labour and life safety LLC	Chuvash Republic	Shakina I.V., a laboratory technician (accepted for employment on April 11, 2011), as of June 1, 2011 did not complete the required training in measuring and assessing the harmful and hazardous workplace factors in accordance with the scope of accreditation.
		Klin institute of labour protection and working conditions OLS-komplekt CJSC	Moscow Region	The information provided contains job titles with the extensions "occupational injury prevention expert" and "certification expert", which do not match those in the staff list.

		ViKo LLC	Republic of Tatarstan	The employed workers with the qualification of a labour protection specialist did not complete the training in and testing of knowledge of labour protection issues. The term of training in labour protection issues of the non-staff labour protection specialists engaged has expired.
		Non-governmental educational institution BUSINESS-EXPERT	Samara Region	As of the time of the accreditation, there were 7 workers in the laboratory according to the staff list. As of the audit date, 6 people voluntarily terminated their employment (Article 80 of the Labour Code of the Russian Federation): Valeeva Elena Vladimirovna, a laboratory technician (order No. 09 dated 19.04.201), Grishutin Andrey Aleksandrovich, a laboratory technician (order No. 09 dated 19.04.2011), Malakhov Sergey Veniaminovich, a laboratory technician (order No. 09 dated 11.04.2011), Shramenko Aleksandra Ivanovna, a laboratory technician (order No. 09 dated 19.04.2011), Denisov Gennady Alekseevich, a laboratory technician (order No. 09 dated 11.04.2011), Safronova Nataliya Vladimirovna, a laboratory technician (order No. 09 dated 11.04.2011). As of the audit date, Ushakov Roman Vladimirovich, Braitseva Ekaterina Aleksandrovna, Braitseva Tatiana Aleksandrovna were again accepted for employment (order No. 10 dated 25.04.2011).
		Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)	Chelyabinsk Region	Out of the 33 on-staff specialists who are authorized to provide services of conducting the assessment of workplace conditions, 5 specialists do not have higher vocational education. The following workers have not completed the special training in general issues of assessing the workplace conditions in companies: Sedova L.Yu., an engineer; Sinelnikova Yu.O., an engineer of the physical and chemical research and ecology laboratory; Pakhomova E.V., an

				engineer of the physical and chemical research and ecology laboratory; Kulikova D.V., engineer; Sobolev L.A., an engineer.
		Non-commercial partnership training and engineering center for labour protection (UITs)	Republic of Bashkortostan	The information about the confirmation of the practical working experience is not correct (Vasiliev N.S., Zhidkova R.R., Gabdrakhmanova L.V., Kolupayeva L.A., Vasiliev A.N., Mirzayanava Z.A.). Vasiliev A.N., a lead specialist and lecturer, has incomplete higher education.
		Center for Expertise Assessment Certification - Magnitogorsk LLC	Chelyabinsk Region	According to the explanation provided by Director of Center for Expertise Assessment Certification - Magnitogorsk LLC, the company does not have the employees who, under the employment contract, can be engaged as labour protection specialists to exercise the functions of an occupational health service or occupational safety specialist of an employer with a total number of under 50 workers.
		Ural association of labour protection centers"LLC	Chelyabinsk Region	The job title of Bryazgina S.V., indicated in the application for accreditation of the company, is that of a leading engineer. However, the audit revealed that in accordance with the terms of the signed employment contract No. 10 dated January 1, 2009, the said worker was employed to work in the position of an expert on analysis of workplace factors of category 2.
		Private educational institution Regional Center for labour protection Labour-Expert Maximum	Chelyabinsk Region	The company does not have the specialist who, under the employment contract, can be engaged as labour protection specialists to exercise the functions of an occupational health service or occupational safety specialist of an employer with a total number of under 50 workers.
		"Center for labour protection LABOUR-EXPERT LLC	Tula Region	Churikov I.S. and Plotnikov S. V., experts, did not complete the special training.

				Lokhmachev A.N., the Director, and Kalmykov S.A., an expert, did not complete the special training again, the certificates issued to them were valid until December 13, 2010.
		Promekspertiza LLC	Tula Region	Morozova S.V., a chemical engineer, and Sysoev L.V., Murzina E.Yu., and Sherstnev K.V., experts, did not complete the special training . Agreement No. 1-S dated 05.05.2011 with ANO "Tula regional labour protection center" for the provision of training during the period of June 14 -17, 2011 to Sysoev L.V., Murzina E.Yu., and Sherstnev K.V., experts, was submitted.
		Center for labour protection - Tula LLC	Tula Region	Lapushkina Yu.S., Komlyakova S.A., Zotova A.N., Gordeev E.A., experts on analysis of workplace factors, did not complete the special training within the declared scope of accreditation. Ryabov A.S., an expert on analysis of workplace factors, does not have higher education. No document certifying a higher education of Vasileva I.V., an occupational injury prevention expert, was presented.
		Center for labour protection Profi LLC	Tula Region	Gureev B.A., the Director as well as Sokolov A.I. and Mosin R.Yu., experts on analysis of workplace factors, did not complete the advanced training in 2009-2010. Zolotareva S.A., an expert, does not have higher education and has not completed the special training in conducting assessment of workplace conditions. Tselovalnikova N.A., Head of testing laboratory, has not completed the special training in conducting assessment of workplace conditions.

		Center for metrology, testing and labour protection CJSC, subsidiary company of Kirovsky Zavod OJSC	Saint-Petersburg	The Head of physical laboratory and the Director of the testing center should repeat training in conducting assessment of workplace conditions.
		Buryatsky Center for Certification LLC (BTsS LLC)	Republic of Buryatia	There are no such job titles as Head of the laboratory and testing laboratory technician on the staff list.
		Research Center LLC	Irkutsk Region	The educational institution (FGBOU VPO BrGU) did not confirm the issuing to Popova E.A., an engineer, of higher vocational education diploma series VSV No. 0857102, submitted during the audit.
		Safe labour LLC	Kaluga Region	The validity period of the test on the knowledge that a labour protection specialist should have of Karpikov Z.P., a labour protection engineer, expired, the next test in March 2011 (certificate No. 410 dated March 28, 2008).
		Magadan regional center for labour protection LLC (MRTsOT LLC)	Magadan Region	Two workers, who earlier had been included in the list when the company underwent accreditation with the Ministry of Health and Social Development, as of the audit date voluntarily terminated their employment. The audit revealed that 2 engineers of the company, A.N. Kurdyumov and Prikhodko N.Yu. have not completed the special training in the declared type of activity.
		Center for socio-economic technologies LLC (TsSET LLC)	Nizhny Novgorod Region	Klochkova N.N., a leading expert of the testing laboratory of working conditions, has secondary vocational education, she attended a medical college. Poshekhonova I.V., an expert of the testing laboratory of working conditions, has secondary education, she is a student of the social sciences faculty of Nizhny Novgorod State University named for N.I. Lobachevsky, with the working experience of 6 months. Afonsky K.D., 6 months work experience.

		Center Labour-Service LLC	Ryazan Region	Employment and civil law contracts with the non-staff specialists engaged were not concluded.
		EkspertZashchita LLC	Nizhny Novgorod Region	Lupanova I.N. was employed to work in the position of an engineer of category 2 of the testing laboratory though she has secondary vocational education (chemical technical school), her working day under the employment contract is 2 hours long. The practical working experience of Kazakova E.A. within the declared scope of accreditation is 2 years. The practical working experience of Kazakov S.A. within the declared scope of accreditation is 1 year. Sidorina N.P., an engineer of category 1, has not undergone the next scheduled certification as a labour protection expert as well as the certification under the programme “Workplaces conditions assessment and certification”.
		Limited liability company Engineering group Expert-analytical center.	Volgograd Region	The specialists recently accepted for employment did not complete the special training. The validity period of the certificates of attending the training seminar “Methods of assessment of the heaviness and intensity of the work process” issued to by Ovechkina L.N., Byzova N.V., Chebotareva I.V. and Glyantseva O.P., has expired.
).	No required certificate of accreditation of the testing laboratory.	TEST CJSC	Moscow	The laboratory is not accredited in accordance with the procedure specified by the National Standard of the Russian Federation “General requirements for accreditation of testing laboratories” GOST R 51000.4-2008, promulgated by the Federal Technical Regulation and Metrology Agency of December 25, 2008, No. 740-st since July 1, 2009.
).	The scope of accreditation of the	Center for labour protection	Tula Region	The scope of accreditation of “Center for labour protec-

	testing laboratory does not cover the possibility to perform the measurement and assessment works required by the applicable procedure for conducting workplace conditions assessment, including the instrumental assessment of the physical, chemical, workplace factors, assessment of the heaviness and intensity of the work process.	Profi LLC		tion "Profi" LLC specifies that the procedure for measuring the fibrogenic aerosols content in the occupational air should be performed in accordance with MU 4436-87 "Procedural guidelines on measuring the fibrogenic aerosols content" that were canceled since 01.05.2009.
		EkspertZashchita LLC	Nizhny Novgorod Region	The content of biological compounds in the occupational air is not measured, chemical compounds content measurements are limited. In the course of the workplace place conditions assessment in Sintez PV LLC conducted in May 2011 to assess exposure to such chemical substances as hydrogen peroxide, di-iron trioxide, manganese and chromium trioxide, there were used the quantitative chemical air analysis reports of the analysis conducted by the laboratory of Sintez LLC on October 20th, 22nd, 23rd, 2010, November 17th, 2010.
		ViKo LLC	Republic of Tatarstan	The passport of the testing laboratory contains reference to MU 4436-87 "Procedural guidelines on measuring the fibrogenic aerosols content" that were canceled since 01.05.2009.
		Izhtrudservice LLC	Udmurt Republic	The scope of accreditation does not contain the reference to the protein substances indicated in the application for accreditation, such as antibiotics, vitamins, hormones, enzymes, protein preparations, medicines. There is no chemical analysis laboratory (wet) for measuring chemical factors (including biological substances (antibiotics, vitamins, hormones, enzymes, protein preparations) generated through chemical synthesis and/or to control which the methods of chemical analysis are used (one-time agreements with the Sanitary and epidemiological inspection service are concluded for taking measurements of the content of some chemical substances,

				since July 1, 2011 the lease arrangement for S 23 m*2 for the laboratory equipment will be in effect).
		EKOSTART CJSC	Republic of Tatarstan	The scope of accreditation of the testing laboratory center does not fully cover the range of electromagnetic radio frequency measurements.
		Center for socio-economic technologies LLC (TsSET LLC)	Nizhny Novgorod Region	The content of biological compounds in the occupational air is not measured, chemical compounds content measurements are limited. Taking measurements of the dust content in the occupation air is assisted, based on a verbal arrangement, by an external company, Sanservis LLC. In the course of the workplace conditions assessment in Praid LLC, the taking of measurements of the content in occupational air of such chemical substances as carbon dioxide, acetic acid, ethyl acetate, formaldehyde, ozone and polyethene, was assisted by FGUZ Centre of hygiene and epidemiology for the Nizhny Novgorod Region.
		TEST CJSC	Moscow	Certificate of accreditation of testing laboratory does not comply with the form approved by the National Standard of the Russian Federation "General requirements for accreditation of testing laboratories" GOST R 51000.4-2008. The laboratory does not have "Procedural guidelines for measuring dust mass concentration in the occupational air of metal and nonmetal mining industry enterprises" MUK 4.1.2468-09.
.	The certifying authority does not have the measuring instruments and test equipment required for conducting studies and measurements of the workplace factors	Klin institute of labour protection and working conditions OLS-komplekt CJSC	Moscow Region	Gas testing pump for biological substances PU-16, manufactured in 2010, due to a technical error was declared under manufacturer part number 3431, this device is registered in the National Register of Measuring Equipments under No. 14531-08, certificate of conformity No. 32117

	specified by the hygienic criteria and the Procedure for conducting workplace conditions assessment, approved by Order of the Ministry of Health and Social Development No. 569 dated August 31, 2007.			dated 01.07.2013
		EKOSTART CJSC	Republic of Tatarstan	Calibration of measurement instruments is carried out after expiration of the regular calibration period, calibration should be carried out before the expiry of the calibration period. The testing laboratory center is not equipped with its own instrument for measuring ultrasound. The workers recently accepted for employment have not completed the training in conducting workplace conditions assessment.
		Consulting-technical center Profstandart LLC (KTTs Profstandart LLC)	Ryazan Region	No information about the Certificate of conformity, measurement parameters as well as about the Certificate of calibration for the electronic Pedometer-Ergometer, RUP Zavod Kamerton - ShEE-01 and mechanical stopwatch, Zlatoust watch factory OJSC-SOSpr-26-2-010, manufacturer part No. 11519-06.
		Labour and life safety LLC	Chuvash Republic	The following equipment and measurement instruments were not sent in due time to state agencies for calibration: air ions counter MAS-01, manufacturer part No. 94206 - the calibration date is 05.02.2010 (once a year); three-component small-sized magnetometer-magnetic field meter MTM-01, manufacturer part No. 01908 - the calibration date is 27.11.2008 (once a year), low-discharge air testing pump for taking air samples BRIZ-2, manufacturer part No.51 -the calibration date is 24.12.2008 (once a year). Photocolorimeter KLF-2 and laboratory scales VLR-200 (uses under a long-term contract with ”UK “Vodokanal” LLC) did not pass the periodical verification. ”UK “Vodokanal” LLC is responsible for the verification.

		Izhtrudservice LLC	Udmurt Republic	Aerosol (dust) content in occupational air is measured in accordance with the MU 4436-87 canceled since 01.05.2009 (after the audit, changes were made in the Passport of laboratory, MUK of 4.1.2468-09 was indicated as the method of measuring aerosol (dust) content in occupational air). No high-accuracy scales (scales MS 210 R No. 70503679 were written off, scales ALC 210-D4 are at the acquisition phase, manufacturer part No. 25503513, Letter from Laboratory equipment LLC, ref. No. 361 dated June 10, 2011). There are no indicator tubes for measuring chemical factors. The following devices are missing: gas analyzer (gas analyzer GANK-4 (R), manufacturer part No. 1502, is at the acquisition phase, Letter of equipment readiness from NPO Pribor LLC ref. No. 139 dated June 7, 2011), instrument for measuring radio-frequency electromagnetic radiation (Electromagnetic radiation levels meter P3-41 complete with the AP-2, AP-4, AP-5 is at the acquisition phase, manufacturer part No. 614, Letter from "PiTON+" LLC ref. No. 698 dated June 6, 2011), instrument for measuring the constant magnetic field (instrument Sh1-15U is at the acquisition phase, manufacturer part No. 42, Letter from the Laboratory equipment LLC ref. No. 361 dated June 10, 2011), instrument for measuring electrostatic field, instrument for measuring flicker and luminosity factors, a second instrument for measuring the daylight factor (lux/brightness/flicker meter Ecolight with photohead FG-01 was purchased, manufacturer part No. 00302-11, delivery note dated May 26, 2011). Lux/flicker meter Argus-07 was condemned as unsuitable for use based on the results of the check (notice No. 63-66/1560 dated January 24, 2011). No annual calibration of x-ray

				radiation meter MKG-01-10/10 has been carried out (the previous calibration in 2008, the meter was written off, Order "On writing off the instrumentation" No. 3/3-2010 dated 18.01.2010).
		ViKo LLC	Republic of Tatarstan	High-precision scales are installed on the desktop, without the granite slab and sand cushion, the laboratory is not equipped with exhaust hoods and storage cabinets for chemical reagents.
		Center for Expertise Assessment Certification - Magnitogorsk LLC	Chelyabinsk Region	As of the date of the application for accreditation, non-selective radiometer Argus-03, manufacturer part No. 367, was on the balance sheet of the company. The audit revealed that the said device has not passed calibration (notice from FGU Novosibirsk TsSm No. 002445 dated August 9, 2010). The said device was replaced with non-selective radiometer Argus-03, manufacturer part No. 411.
		Quality center Izhevskoe project design and technological bureau LLC (Quality center IPKTB LLC)	Udmurt Republic	There is no second luxmeter necessary for measuring the daylight factor. The following devices did not pass the annual calibration and therefore cannot be used for taking measurements: air ionization level meter and ultraviolet radiation intensity meter.
		Limited liability company Far Eastern regional labour protection center (DVRTsOT LLC)	Primorsky Territory	1. Instrument for express measurement of harmful substances content in the air, bellows gas testing pump AM-0059, No. 1596, 2010, did not undergo verification within the established deadlines, according to the technical passport the verification was to be carried out on 16.05.2011. 2. Infrasound, ultrasound, noise, general and local vibration meter, vibration and noise analyzer Assistent, manufacturer part No. 020110, did not undergo verification within the established deadlines, according to the tech-

				nical passport the verification was to be carried out on 17.02.2011. 3. Far-ultraviolet emission meter, radiometer/dose-rate meter Argus-06/1 manufacturer part No. 327, did not undergo verification within the established deadlines, according to the technical passport the verification was to be carried out on 22.04.2011.
		Center for socio-economic technologies LLC (TsSET LLC)	Nizhny Novgorod Region	There are no certificates of conformity for the following devices: Meteometer MES 200A, Non-selective radiometer Argus 03, Flicker/lux meter Argus 07, Photometer/brightness meter Argus 02, Radiometer UF S Argus 06, Sound Meter Spectrum Analyzer OCTAVA 101A, Magnetic and electric industrial frequency field density meter VE 50, Electrostatic field intensity meter IESP-7, Air ions counter MAS 01, Gas testing pump for taking air samples Model 822, Gamma radiation dose meter DRG 02U Arbitr, Dynamometer for general purposes DPU 0,02 -2. No technical passports and operating manuals: air ions counter MAS 01, manufacturer part No. 3853; gas testing pump for taking air samples, manufacturer part No. 477, 3893.
		EkspertZashchita LLC	Nizhny Novgorod Region	There are no certificates of conformity for the following devices: Manual pump sampler NP-3M; Spectrophotometer PE-5400 UF; High-accuracy electronic scales VIBRA HTR-80C; High-accuracy electronic scales VIBRA HTR-220CE; Gas testing pump PU-3E/12; Microclimate parameters meter Meteoskop; Lux/flicker meter Argus-12;

				Voltmeter Ts 42702; Noise meter integrating vibrometer ShI-01V; Noise and vibration analyzer ASSISTENT SIU 30; Electrostatic field intensity meter ST-01; Electrical and magnetic field meter VE-METR-AT-003; Electromagnetic radiation levels meter P3-41 with three antennas AP-1, AP-3 and AP-5; Air Ion counter MAS-01; Dose-rate meter/radiometer MKS-AT1117M with multiple purpose unit BDPS-02, with multiple purpose unit BDKT-03; Dose-rate meter/radiometer MKS-AT6130; Electronic hanging scales VNT-15-10; Dynamometer PDU 0.2.2 5030. The following devices were not calibrated: Gas testing pump PU-4E, manufacturer part No. 2488, 2007; Luxmeter/brightness meter Argus-12, manufacturer part No. 414, 2006; Electrical and magnetic field meter VE-metr AT-002, manufacturer part No. 289707, 2007. The indicator tubes used for detecting in occupational air such chemicals as hydrogen sulfide, hydrogen chloride, xylene, ozone, toluene, solvent, ethanol, methanol, benzene, nitrogen, dioxide, formaldehyde, propanol, acetic acid, phenol and chlorine, are past the best-before date.
		Ural association of labour protection centers”LLC	Chelyabinsk Region	Based on the information provided (as of the time of submitting the application), electrostatic field intensity meter ST-01, manufacturer part No. 087606, was on the balance sheet of the company but the audit revealed that the said manufacturer part number does not match the number 075906 of the equipment that is actually on the balance sheet of the company, because the said device was replaced due to failure. Integrated device (flicker meter - luxmeter) TKA-PKM 02 (model 08) was replaced due to failure with luxmeter “Argus-02”, being on the

				balance sheet of the company since January 18, 2010, in accordance with the delivery and acceptance certificate. It was established that on the balance sheet of the company there is gas testing pump for taking air samples PU 4E (manufacturer part No. 874), noise meter Oktava-110A (manufacturer part No. A060392), but in the course of the audit the said measuring instruments were not actually found in the company. Based on the information provided, the said measuring instruments were replaced during the operation with gas testing pump PU-2E (manufacturer part No. 562), noise meter Algoritm-03 (manufacturer part No. 16642) and noise and vibration meter SVAN-959 (manufacturer part No. 16513) being on the balance sheet of the company.
		"Center for labour protection LABOUR-EXPERT LLC	Tula Region	No tests are conducted in the chemical analysis laboratory. There was submitted Agreement No. 20-o dated 05.08.2005 with FGUZ "Federal center for hygiene and epidemiology on rail transport" for providing services of measuring harmful substances concentration in occupational air.
		Promekspertiza LLC	Tula Region	Chemical analysis laboratory is being established. There were submitted: 1.1. payment order No. 70 dated 06.05.2011 to purchase muffle furnace PMK-3, 2.1.2. payment order No. 71 dated 06.05.2011 to purchase distilling apparatus DE -4. 1.3. payment order No. 78 dated 06.05.2011 to purchase titration desk LK -900 ST, exhaust hood LK-900 ShV. No instrument for measuring air ionic composition. There was submitted payment order No. 68 dated 06.05.2011 to purchase air ions counter MAS-01.
		Center for labour protection -	Tula Region	Dosimeter-radiometer MKS-05 Terra, manufacturer part

		Tula LLC		No. 1208639, was leased, as of the time of the audit it was not in the company. There was submitted payment order No. 81 dated 19.05.2011 to purchase dosimeter-radiometer MKG-01. No tests are conducted in the chemical analysis laboratory.
		Center for labour protection Profi LLC	Tula Region	Electronic scales RV-64, manufacturer part No. 8330470019, and noise and vibration analyzer ASSIST-ENT, manufacturer part No. 021410, were leased, as of the time of the audit they were not in the company. There is no chemical analysis laboratory. The company submitted Commercial Property Lease Agreement No. 2 dated 29.04.2011. In accordance with clause 1.2 of this document, the premises will be used as an office with an area of 18 sq.m. and a laboratory with an area of 30 sq.m.
		"Regional public foundation for labour protection in communications organizations"	Saint-Petersburg	The testing laboratory does not have the measuring equipment for monitoring dust content (inorganic dusts) in occupational air, for analyzing the gas content of some chemicals in occupational air: benzene, formaldehyde, hydrogen chloride, etc., as well as mixtures of biological nature (antibiotics, vitamins, hormones, enzymes, protein preparations). Not all measuring instruments of the testing laboratory have certificates of conformity.
		Non-commercial partnership "Far Eastern center of occupational safety" (NP DVTsBT)	Primorsky Territory	There are no laboratory high-precision scales not below II (high) accuracy class according to GOST 24104-2001.

		Engineering and ecoanalytical bureau Avtoritm LLC	Kirov Region	There is no information about the number of registration in the National Register of Measuring Equipments, not for all devices the number and the period of validity of the certificate on conformity are available.
		Magadan Center for certification and working conditions assessment LLC, (MTsAEUT LLC)	Magadan Region	Not for all measuring instruments there are available: number of state registration in the National Register of Measuring Equipments (spring dynamometer, electronic stopwatch). The period of validity has expired for some measuring instruments (7 instruments). Some measuring instruments do not have certificates of conformity (electric field meter, magnetic field meter, electrostatic field intensity meter, spring dynamometer).
		Novokuznetsk certification laboratory CENTRE for labour protection LLC	Kemerovo Region	Three offices with the total area of 63.7 sq.m. are rented under Agreement No. 21 dated 01.11.2010 and Agreement No. 22 dated 01.11.2010. All devices are portable and are stored in the office with an area of 21.9 sq.m., in a metal cabinet. There is no stationary equipment for chemical analysis.
		Research Center LLC	Irkutsk Region	The company does not have on its balance sheet the instrument for measuring electromagnetic radiation and the instrument for measuring electromagnetic field power flow density.

		TEST CJSC	Moscow	The following measuring instruments necessary for conducting workplace conditions assessment are missing: 1. Low-discharge gas testing pump for taking air samples BRIZ-1, manufacturer part No. 00288, was not found; 2. Gas testing pump PU-3E, manufacturer part No. 622 - on preservation; 3. Gas testing pump PU-4E, manufacturer part No. 2488 - at calibration; 4. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration; 5. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration; 6. Vibrometer t. 2513, manufacturer part No. 1521572 - on preservation; 7. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration; 8. Calibration vibrator4294, manufacturer part No. 1466821 - on preservation; 9. Electrostatic field intensity meter ST-01, manufacturer part No. 093807 - at calibration; 10. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration; 11. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration; 12. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration; 13. Globe thermometer TIP 90, manufacturer part No. 3 12858 - on preservation; 14. Flicke/lux meter “TKA-PKM/08”, manufacturer part No. 08783, was not found; 15. Lux/brightness/flicker meter Ecolight, manufacturer

				part No. 10-00169, was not found; 16. Air ions counter MAS-01, manufacturer part No. 97007 - at calibration; 17. Microclimate parameters meter Meteoskop, manufacturer part No. 06207 - at calibration;

		KOTLOSERVIS LLC	Ryazan Region	The company did not provide the information about the number and validity period of the certificates of conformity for: 1. Portable moisture and temperature meter IVTM-7; 2. Meteometer MES 202; 3. Noise and vibration analyzer SVAN-947; 4. Noise and vibration analyze Assistent BVEK438150-005PS; 5. Integrated device TKA-PKM (model 08) heart Flicker meter + Lux meter; 6. Luxmeter TKA-PK; 7. Electromagnetic field power flow density meter P3-33M; 8. Multipurpose gas analyzer GANK-4 KNGU 413322002; 9. Industrial frequency field density meter PZ-50; 10. Mechanical stopwatch SOPpr-2a-3-000, Russia; 11. Electrical and magnetic field meter VE-METR-AT-002; 12. Electrostatic field intensity meter IESP-7. The validity period of the certificate of conformity for dose-rate meter/radiometer MKS-08P, Russia, manufacturer part No. 310, expired on 02.04.2008.
		Center Labour protection and industrial safety LLC (Center OTiPB LLC)	Rostov Region	The agreement for joint activities was concluded with NPTs “Labour protection” FGBOY VPO RGUPS on 20.01.2011. The subject of the agreement is assignment for temporary use of laboratory equipment, devices and tools.

		SKK LLC	Kostroma Region	The passport of the testing laboratory does not contain reference to the recently purchased device: Ekofizika vibration sensors, noise and levels of electromagnetic fields measurements, manufacturer part No. EF-110412. It was purchased in 2011, which is a breach of clause 7.6 of annex 1.7 National Standard of the Russian Federation GOST R 51000.4-2008. Order was issued to rectify the breach.
		Laboratory of labour and environmental protection LOTUS ECOLOGY LLC	Rostov Region	Agreement No.1 dated 05.04.2010 was concluded with the Branch The South Aeronavigation. The subject of the agreement is assignment for temporary use of measuring instruments. Equipment lease contract No. 4 dated January 27, 2011, was concluded with Center Labour protection and industrial safety LLC The subject of the agreement is assignment for temporary use of equipment. Equipment lease contract dated 24.12.2010 was concluded with NPTs “Labour protection” RGUPS. The subject of the agreement is assignment for temporary use of equipment.

		Scientific and technical center Profattestat LLC	Ryazan Region	No information about the number in the state register, certificate of conformity and year of manufacture is available for 24 measuring instruments. The certificate of calibration was not provided for: 1. Globe thermometer for measuring thermal load factor, intensity of thermal radiation, resulting temperature, manufacturer part No. 19409, put in operation in 2009; 2. Tape measure, manufactured in Russia, Gosmetr plant, put in operation in 2011, measurement range 0-10 m.
		Non-governmental educational institution Center for certification - occupational safety	Arkhangelsk Region and Nenets Autonomous Area	Calibration period of some devices has expired.
2.	There is no Quality manual for measurement and assessment works performed by the testing laboratory certified by the signature of the head of the company (deputy head) and the seal of the company or its noncompliance with the requirements of the applicable legislation, including the requirements of GOST R ISO/IEC 17025-2006 "General requirements for the competence of testing and calibration laboratories."	Certification center Prometheus LLC	Kemerovo Region	According to section 7 of the Manual, the laboratory should consist of: chemical laboratory equipped with exhaust ventilation, weighing room equipped with specially equipped tables for high-precision scales, offices for workers. In fact, at the address: 13 Komsomolsky pr., Kemerovo, at the time of the audit the offices were under minor repairs without the office and laboratory equipment. Moreover, the contract was concluded for 11 months, for the period from 14.04.2011 till 14.03.2012 and certification of the laboratory premises was conducted for some unknown premises.
		ViKo LLC	Republic of Tatarstan	The Quality manual does not contain all sections, the missing sections are: - Testing quality control methods; - Description of the procedure for dealing with com-

				plaints (appeals).
		Izhtrudservice LLC	Udmurt Republic	The quality manual does not contain: 1. the forms of the major reports used by the laboratory in its activities, 2. tasks and responsibilities associated with quality assurance, made known to each employee taking into account the scope of their official authority, 3. feedback and corrective action in case of inconsistencies in the results of the tests.
		Quality center Izhevskoe project design and technological bureau LLC (Quality center IPKTB LLC)	Udmurt Republic	The quality manual does not contain: 1. The forms of the major reports used by the laboratory in its activities; 2. Reasonable evidence proving the familiarization of the testing laboratory personnel with the Quality manual.
		Ekonomproekt LLC	Ryazan Region	There is no comprehensive description of the laboratory in the Manual. Quality assurance procedures for each test are not described in the Manual. Procedure for dealing with complaints (appeals) is not described in the Manual.
		Klin institute of labour protection and working conditions OLS-komplekt CJSC	Moscow Region	Document is not tied and sealed , no date of approval. Procedure for making changes and additions is not properly described in the Manual.
		"Center for labour protection LABOUR-EXPERT LLC	Tula Region	The following experts were not familiarized with the Quality manual of testing laboratory (no signature in the familiarization sheet): Kozlov A.N., Plotnikov S.V., Churikov I.S.
		Center for labour protection Profi LLC	Tula Region	The Quality manual does not contain the following information in accordance with the requirements of GOST R ISO/IEC 17025-2006 "General requirements for the competence of testing and calibration laboratories":

				1. feedback and corrective action in case of inconsistencies in the results of the tests; 2. the forms of the major reports used by the laboratory in its activities,
		Central Order of the Red Banner of Labour Marine Research and Design Institute CJSC (TsNIIMF CJSC)	Saint-Petersburg	Procedure for dealing with complaints (appeals) is not described in the Manual. This breach was rectified in the course of the audit.
		"Institution of the Federation of independent trade unions of Russia -"Research institute of labour protection in Ekaterinburg"	Sverdlovsk Region	The following persons did not familiarized themselves with the Manual: Shameev A.D., a leading engineer, Loginova T.M., an engineer.
		KOTLOSERVIS LLC	Ryazan Region	No date of approval is indicated (only the year), there is no date of familiarizing the workers with the Manual. The Manual does not describe the tasks of quality assurance and quality assurance procedures during each test. The forms of the major reports are not attached to the manual.
		Laboratory of labour and environmental protection LOTUS ECOLOGY LLC	Rostov Region	Laboratory staff have not been familiarized with the Quality manual of the labour protection and ecology laboratory of Lotus Ecology LLC
		Praktik Tsentr LLC	Khabarovsk Region	Danilenko N.I., a non-staff specialist, did not familiarize himself with the Manual and didn't not prove it by putting the signature in the familiarization sheet.
		Scientific and technical center Profattestat LLC	Ryazan Region	Quality assurance procedures for each test are not described in the Manual. Procedure for dealing with complaints (appeals) is not described in the Manual.
		Center Labour protection and industrial safety LLC (Center	Rostov Region	Oclyak V.V., an engineer, was not familiarized with the Quality manual of the testing laboratory of Center OT i

		OTiPB LLC)		PB LLC.
		Federal state healthcare institution Center for hygiene and epidemiology for the Kirov Region (FSHI Center for hygiene and epidemiology for the Kirov Region)	Kirov Region	No information about familiarization of Nikitinskaya L.G., chief medical officer, with the Quality manual.
		The Republic Center for assessment and certification LLC	Republic of Buryatia	Reasonable evidence proving the familiarization of the testing laboratory personnel with the Quality manual were not provided.
3.	Absence or a poor condition of the applied in the audited organization system of storage and keeping records for the results of the works performed by the audited certifying organization in the course of providing the services of conducting assessment of workplace conditions.	ChOU DPO Center for certification Etalon	Moscow Region	There is no hard copy of the records book for the results of the works performed by the audited certifying organization in the course of providing the services of conducting assessment of workplace conditions.
		Klin institute of labour protection and working conditions OLS-komplekt CJSC	Moscow Region	There are no hard copies of the records book and measurement reports.
		Scientific and technical center Profattestat LLC	Ryazan Region	There are no hard copies of the measurements register and measurement reports.
		Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)	Chelyabinsk Region	No information about registration was provided and no results of the works as specified in clause 3.1. of Agreement No. 143/02-2008 dated 24.06.2008, performed when conducting workplace conditions assessment in NIIM OJSC.
		Non-governmental educational institution Center for certification - occupational safety	Arkhangelsk Region and Nenets Autonomous Area	Measurements registers are not maintained.

4.	There are no documents that prove the right of organization to carry out educational activities in the sphere of labour protection.	Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)*	Chelyabinsk Region	There are no documents that prove the right of NIIBTMET OJSC to carry out educational activities (license) in the sphere of labour protection and were duly issued by the authorized body of executive power.
		"Scientific and technical center labour - expertise" LLC*	Republic of Dagestan	The validity period of the license expired on March 21, 2011.
5.	There are no labour protection training programmes for various categories of workers, including managers and specialists of business entities or the programmes do not correspond to the standard recommended (approved) training programmes.	Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)	Chelyabinsk Region	The programmes submitted are not approved by the relevant federal bodies of executive power in the sphere of labour protection.
		Certification center of labour protection LLC*	Republic of Buryatia	The training program "Occupational safety including basic occupational risk management and modern safety management systems (OHSAS)" intended for managers and specialists, contains information that, on March 1-4, 2011, the lectures on occupational safety in the Art center of the settlement of Barguzin were to be delivered by Borisov V.P., Deputy Head of the State Labour Inspectorate of the Republic of Buryatia, whereas his employment with the State labour Labour Inspectorate of the Republic of Buryatia was terminated on 14/02/2011.
6.	Failure to meet the requirement that not less than 30% of the lecturers employed by the training organization and engaged in the provision of training, should be employed under employment agreement.	Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)	Chelyabinsk Region	The staff list of NIIBTMET OJSC approved on 11.01.2011 does not contain any positions of lecturers. No information was provided about non-staff lecturers hired by NIIBTMET OJSC to provide training in labour protection issues to employers and workers.
		firm KOTLOSERVIS LLC*	Ryazan Region	No documents prove the qualification of the specialists as lecturers. There were some cases identified when lessons on all the topics on the curriculum were conducted by one specialist,

				Klevtsov I.T.
7.	There are no technical training aids in the audited training organization, including technical aids for training in the provision of first aid to victims of occupational accidents.	Research Institute of occupational safety in metallurgical industry OJSC (NIIBTMET OJSC)	Chelyabinsk Region	Technical aids for training in the provision of first aid to victims of occupational accidents are missing.

* Company accredited to provide the services in the sphere of workplace conditions assessment and training to employers and workers in labour protection issues.

RESC 3§3 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

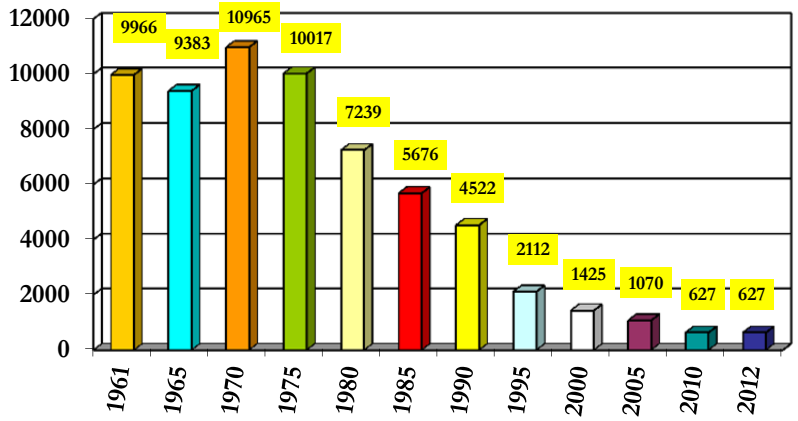
54. The representative of Turkey provided the following information in writing:

Le Comité européen des droits sociaux (CEDS) conclut que la situation de notre pays n'est pas conforme à l'article 3§3 de la Charte au motif que les mesures prises pour réduire le nombre excessif d'accidents du travail mortels sont insuffisantes.
Nous présentons ci-dessous nos commentaires sur le motif de non-conformité et les informations en matières.

Pour apprécier la situation d'un pays concernant les accidents du travail, nous estimons qu'il ne suffit pas la comparer uniquement avec celles des autres pays, mais il faut également tenir compte des progrès que ce pays a réalisés au cours du temps.

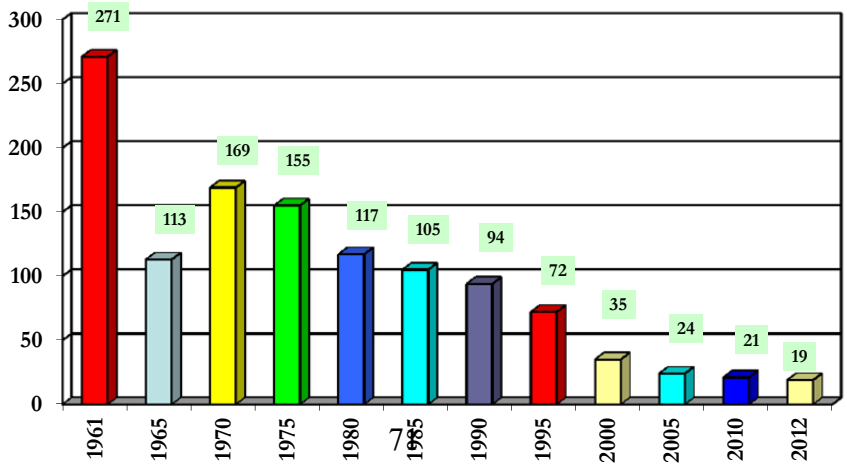
Les graphiques ci-dessous couvrant la période de 1961-2012 mettent en évidence le progrès accompli par notre pays dans le domaine de la sécurité et de l'hygiène du travail.

Graphique 1 : Taux des accidents du travail pour 100.000 travailleurs de 1961 a 2012



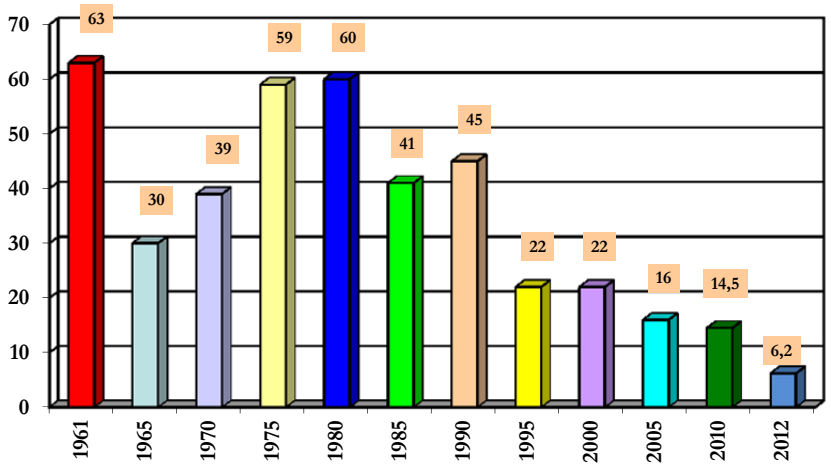
Source: Institue de la sécurité sociale turc

Graphique 2 : Taux de l'incapacité permanente pour 100.000 travailleurs de 1961 a 2012



Source: Institue de la sécurité sociale turque

Graphique 3 : Taux de l'accident du travail et des maladies professionnelles mortels pour 100.000 travailleurs de 1961 a 2012



Source: Institue de la sécurité sociale turc

Les graphiques 1, 2 et 3 révèlent une tendance constante d'amélioration dans le domaine de la sécurité et de l'hygiène du travail. Cela est du, d'une part au développement technologique, d'autre part, des politiques de la sécurité du travail mise en œuvre, notamment celles qui vise a augmenter la conscience de la sécurité du travail.

Tableau 1: Statistiques concernant les accidents du travail et maladies professionnelles en Turquie (2008-2012)

Source: Institue de la sécurité sociale turc

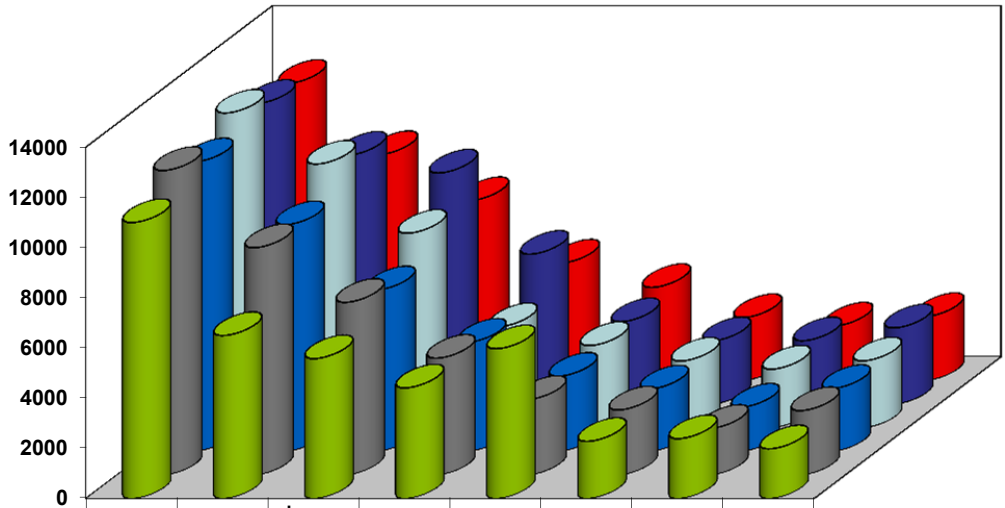
Année	Nombre d'entreprises	Nombre de travailleurs	Nombre d'accidents du travail	Taux d'accident (par 100000 travailleurs)	Nombre de maladie professionnelle	Nombre de décès			Taux d'accident du travail et maladies professionnelles mortelles (par 100000 travailleurs)
						AT	MP	Totale	
2008	1.170.248	8.802.989	72.963	829	539	865	1	866	9.8
2009	1.216.308	9.030.202	64.316	712	429	1171	0	1171	12.9
2010	1.325.749	10.030.810	62.903	627	533	1444	10	1454	14.5
2011	1.435.879	11.030.939	69.227	628	697	1700	10	1710	15.5
2012	1.538.006	11.939.620	74.871	627	395	744	1	745	6.2

Année	Nombre d'accidents du travail	Nombre d'accidents du travail mortels	Secteur	Nombre de travailleurs	Nombre d'accidents du travail	Taux d'accident du travail (par 100000 travail-leurs dans le secteur)	Pourcentage dans l'ensemble de l'accident du travail (%)	Secteur	Nombre d'accidents du travail mortels	Taux d'accident du travail mortel (par 100000 travail-leurs dans le secteur)	Pourcentage dans l'ensemble de l'accident du travail mortel (%)
2008	72.963	865	Mine	112.335	6495	5781	8,9	Mine	66	58,8	7,6
			Métallurgie (Fabrication des produits en métal)	472.722	11000	2327	15,1	Métallurgie (Fabrication des produits en métal)	53	11,2	6,1
			Bâtiment	1.238.888	5574	450	7,6	Bâtiment	297	23,9	34,3
			Textile	734.773	4409	600	6,0	Textile	13	1,8	1,5
			Transport	408.314	2275	557	3,1	Transport	118	28,9	13,6
			Alimentation	336.909	1980	587	2,7	Alimentation	22	6,5	2,5
			Mobilier	88.959	2386	2682	3,3	Mobilier	10	11,2	1,2
			Mécanique	284.485	5969	2098	8,2	Mécanique	27	9,5	3,1
2009	64.316	1171	Mine	115.934	9056	7811	14,1	Mine	20	17,2	1,7
			Métallurgie (Fabrication des produits en métal)	442.865	12133	2740	18,9	Métallurgie (Fabrication des produits en métal)	13	2,9	1,1
			Bâtiment	1.227.698	6877	560	10,7	Bâtiment	156	12,7	13,3
			Textile	689.554	4649	674	7,2	Textile	14	2,0	1,2
			Transport	433.303	2588	597	4,0	Transport	38	8,8	3,2
			Alimentation	349.222	2561	733	3,9	Alimentation	11	3,1	0,9
			Mobilier	86.102	1854	2153	2,9	Mobilier	9	10,4	0,8
			Mécanique	267.436	3009	1125	4,7	Mécanique	12	4,5	1,0
2010	62.903	1444	Mine	125.457	9032	7199	14,4	Mine	125	99,6	8,7
			Métallurgie (Fabrication des produits en métal)	468.665	11539	2462	18,3	Métallurgie (Fabrication des produits en métal)	67	14,3	4,6
			Bâtiment	1.450.291	6437	444	10,2	Bâtiment	475	32,8	32,8
			Textile	746.617	4351	583	6,9	Textile	32	4,3	2,2
			Transport	527.424	2485	471	3,9	Transport	135	25,6	9,3
			Alimentation	369.518	2504	678	3,9	Alimentation	32	8,7	2,2

			Mobilier	157.865	1760	1115	2,8	Mobilier	15	9,5	1,0
			Mécanique	304.380	2992	983	4,8	Mécanique	34	11,2	2,4
2011	69.227	1700	Mine	135.447	10.507	7757	15,2	Mine	116	85,6	6,8
			Métallurgie (Fabrication des produits en métal)	515.932	12.540	2431	18,1	Métallurgie (Fabrication des produits en métal)	90	17,4	5,3
			Bâtiment	1.630.851	7.749	475	11,2	Bâtiment	570	34,9	33,5
			Textile	805.768	4.024	499	5,8	Textile	34	4,2	2,0
			Transport	592.180	2.655	448	3,8	Transport	205	34,6	12,1
			Alimentation	392.024	2.661	679	3,8	Alimentation	49	12,5	2,9
			Mobilier	182.430	2.333	1279	3,4	Mobilier	15	8,2	0,9
			Mécanique	328.714	3.273	996	4,7	Mécanique	41	12,5	2,4
2012	74.871	744	Mine	137.630	9.919	7207	13,2	Mine	44	31,2	5,9
			Métallurgie (Fabrication des produits en métal)	522.636	11.983	2293	16,0	Métallurgie (Fabrication des produits en métal)	35	6,7	4,7
			Bâtiment	1.789.487	9.209	515	12,3	Bâtiment	256	14,3	34,4
			Textile	884.967	5.970	675	7,8	Textile	18	2,0	2,4
			Transport	646.380	2.875	445	3,8	Transport	78	12,1	10,5
			Alimentation	421.224	3.035	721	4,1	Alimentation	16	3,8	2,2
			Mobilier	203.903	2.523	1237	3,4	Mobilier	8	3,9	1,1
			Mécanique	312.539	3.280	1049	4,4	Mécanique	22	7,0	3,0

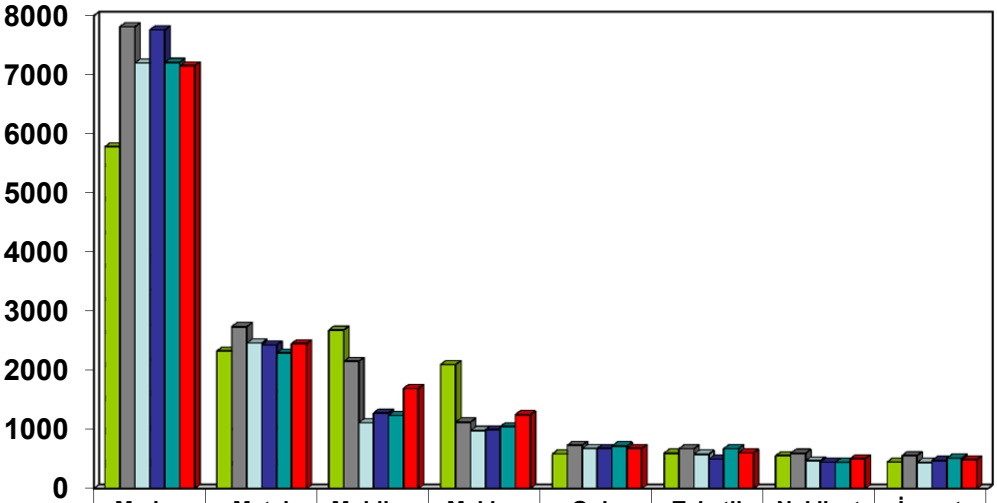
Tableau 2: Distribution des accidents du travail et de l'accident de travail mortel selon secteur d'activité (2008-2012)

Les statistiques selon les secteurs d'activité couvrant la période de 2008 à 2012 figurent dans les graphiques 5, 6 et 7 ci-dessous.



	Metal	Maden	İnşaat	Tekstil	Makin.	Nakl.	Mobilya	Gıda
2008	11000	6495	5574	4409	5969	2275	2386	1980
2009	12133	9056	6877	4649	3009	2588	1854	2561
2010	11539	9032	6437	4351	2992	2485	1760	2504
2011	12540	10507	7749	4024	3273	2655	2333	2661
2012	11983	9919	9209	5970	3280	2523	2523	3035
ORT.	11839	9002	7169	4681	3705	2505	2171	2548

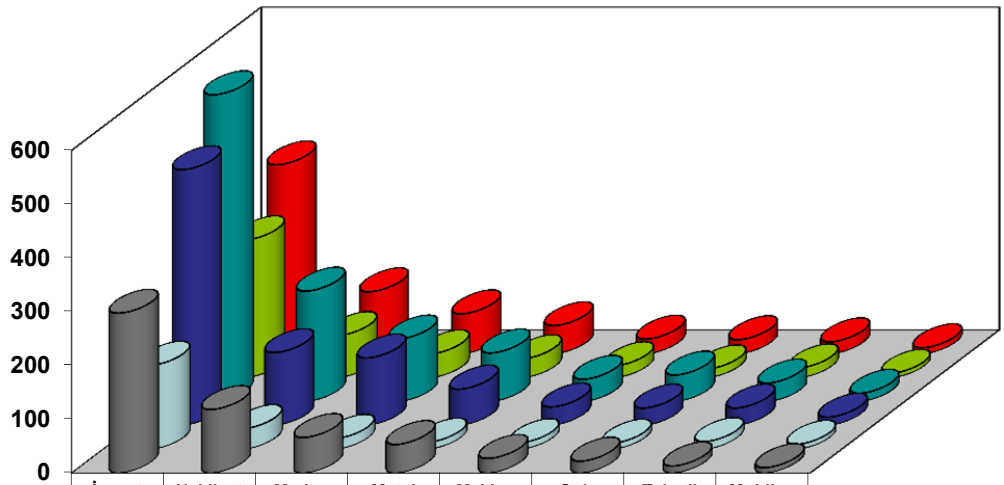
Graphique 5: Nombres des accidents du travail selon les secteurs d'activité



	Maden	Metal	Mobilya	Makine	Gıda	Tekstil	Nakliyat	İnşaat
2008	5781	2327	2682	2098	587	600	557	450
2009	7811	2740	2153	1125	733	674	597	560
2010	7199	2462	1115	983	678	583	471	444
2011	7757	2431	1279	996	679	499	448	475
2012	7207	2293	1237	1049	721	675	445	515
ORT.	7151	2451	1693	1250	680	606	504	489

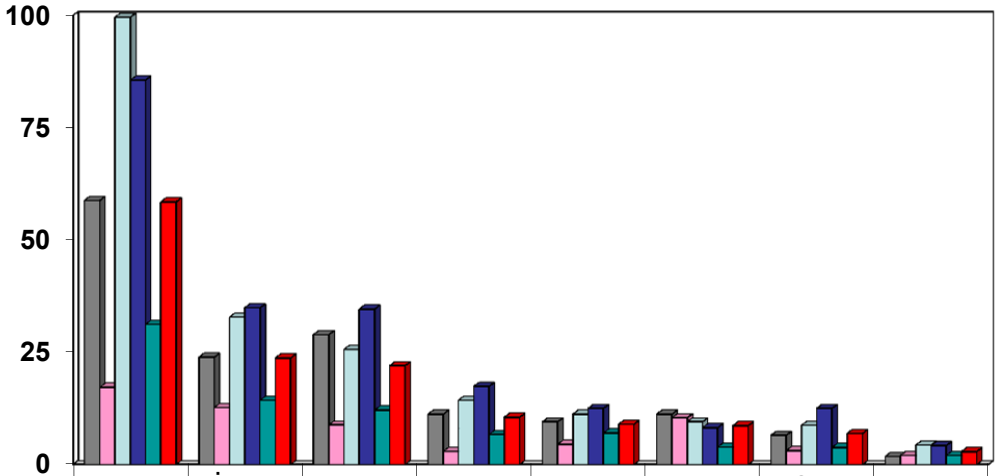
Graphique 6: Taux des accidents du travail selon les secteurs d'activité

Le graphique 5 révèle que les trois secteurs d'activité ayant les plus nombreux d'accident du travail en moyen de cinq ans sont successivement la métallurgie, la mine et le bâtiment. Par contre, selon le graphique 6, les trois secteurs d'activité ayant le taux le plus élevé d'accident du travail en moyen de cinq ans sont successivement la mine, la métallurgie et le mobilier.



	İnşaat	Nakliyat	Maden	Metal	Makine	Gıda	Tekstil	Mobilya
2008	297	118	66	53	27	22	13	10
2009	156	38	20	13	12	11	14	9
2010	475	135	125	67	34	32	32	15
2011	570	205	116	90	41	49	34	15
2012	256	78	44	35	22	16	18	8
ORT.	351	115	74	52	27	26	22	11

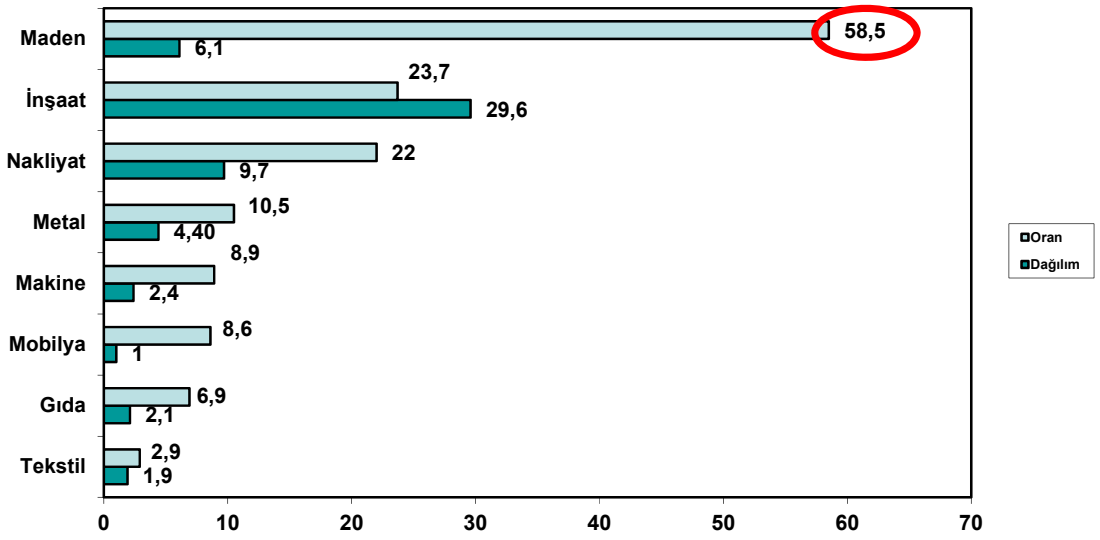
Graphique 7: Nombres des accidents du travail mortels selon les secteurs d'activité



	Maden	İnşaat	Nakliyat	Metal	Makine	Mobilya	Gıda	Tekstil
2008	58,8	23,9	28,9	11,2	9,5	11,2	6,5	1,8
2009	17,2	12,7	8,8	2,9	4,5	10,4	3,1	2
2010	99,6	32,8	25,6	14,3	11,2	9,5	8,7	4,3
2011	85,6	34,9	34,6	17,4	12,5	8,2	12,5	4,2
2012	31,2	14,3	12,1	6,7	7	3,9	3,8	2
ORT.	58,48	23,72	22	10,5	8,94	8,64	6,92	2,86

Graphique 8: Taux des accidents du travail mortels selon les secteurs d'activité

Le graphique 7 montre que les trois secteurs d'activité ayant les plus nombreux d'accident du travail mortel en moyen de cinq ans sont successivement le bâtiment, la métallurgie et la mine et le bâtiment. Selon le graphique 8, les trois secteurs d'activité ayant le taux le plus élevé d'accident du travail mortel en moyen de cinq ans sont successivement la mine, le bâtiment et le transport.



Graphique 9: Taux des accidents du travail mortels (pour 100 000 travailleurs) et distribution des accidents du travail mortels selon les secteurs d'activité (taux moyen pour cinq ans, 2008-2012)

Selon le graphique 9, le bâtiment occupe avec un taux de %29,6 la première place dans la distribution de taux des accidents de travail mortel parmi les secteurs d'activité, alors que la mine se trouve avec un taux de 58,6 au premier rang au regard de 100 000 travailleurs.

Les mesures prises pour diminuer les accidents du travail

De mesures législatives importantes ont été pris pour diminuer les accidents du travail. Ainsi, la loi no: 6331 sur la sécurité et l'hygiène du travail est entré en vigueur par la publication dans le Journal officiel du 30/06/2013. Cette loi qui couvre toutes les entreprises quelle qu'en soit le secteur et le nombre de travailleurs est une loi préventive. Avec cette loi, tous les travailleurs sont couverts par les mesures de la sécurité et de l'hygiène du travail.

L'article 14 de cette loi intitulée ''Inscription et déclaration des accidents du travail et des maladies professionnelles'' prévoit par des dispositions claires comment, quand et ou les employeurs doivent déclarer des accidents du travail et des maladies professionnelles.

Les professionnels de la sécurité et de l'hygiène du travail sont obligés de faire déclaration aux employeurs, en écrivant sur 'un cahier approuvé' les observations et les conseils concernant leur travail dans l'entreprise, les activités qu'il on mené individuellement ou en équipe et d'autres sujets qu'ils estiment nécessaire. Ainsi, il est assuré d'avoir une preuve juridique en cas d'un accident du travail et des maladies professionnelles dans l'entreprise.

En outre, l'article 26 de la même loi intitulée ''Amendes administratives et Application'' indique les montantes des amendes en cas de non-déclaration.

La création de la culture de la sécurité et sa diffusion dans toute la société est un facteur aussi important que la législation pour diminuer les accidents du travail et maladies professionnelles. Ainsi, afin de faire accepter la législation et la culture de sécurité par la société, notre gouvernement accorde une importance spéciale aux activités d'information et de promotion, ainsi qu'aux projets et aux partenariats.

RESC 3§3 UKRAINE

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

- *measures taken to reduce the excessive number of fatal accidents are insufficient;*
- *the labour inspection system is inefficient*

55. Additional information is to be provided in the next National Report.

Article 3§4 - Occupational health services

RESC 3§4 ALBANIA

The Committee concludes that the situation in Albania is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively institute access to occupational health services for all workers in all sectors of the economy.

56. Additional information is to be provided in the next National Report.

RESC 3§4 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that the public authorities promote the progressive institution of occupational health services.

57. The representative of Ireland provided the following information in writing:

There is no statutory requirement in Ireland on employers to provide access to occupational health services and there are no statutory plans to establish such services.
Larger organisations in both the public and private sectors may provide some occupational health services for employees. These services are provided on a full or part time basis depending on the number of employees and the employment sector. The services provided would include rehabilitation, absence management and health promotion.

Small and micro enterprises rarely provide occupational health services because of the cost. The 2008 Workplace Health and Wellbeing Strategy, produced by the Health and Safety Authority, recommended the development of a service delivery model that would support small and micro enterprises in implementing workplace health prevention, promotion and rehabilitation programmes including access to occupational health services. Appendix 1 contains an outline of the Occupational Health and Employee Assistance Services provided by the Health Service Executive which is Ireland's biggest employer.
Since the Sixth Report, there has been no progress made in developing occupational health services for small and micro enterprises.

It is not possible to give an accurate estimate of the number of companies and the proportion of employees that still do not have access to occupational health services in 2013, but it is highly likely that the majority do not.

There is no plan in place by the government, its agencies or private enterprise to improve the provision of such services for small and micro enterprise.

APPENDIX 1

Occupational Health and Employee Assistance Services in the HSE

The health service is Ireland's largest employer with approximately 100,000 staff. One way in which the Health Service Executive ensures the effective exercise of the right to safe and health working conditions is through the provision of Occupational Health and Employee Assistance Services. In outline, the Health Service Executive has established Occupational Health Services to cover Dublin Mid-Leinster, Dublin North East, the South and West. Occupational Health (OH) Departments are generally based at major hospital sites giving direct, convenient access to large staff groups (e.g. Cork University Hospital, which has a staff of approximately 3500). These central locations are also accessible to staff from all Community Hospitals and Services. Voluntary Hospitals have similar, standalone OH services for staff. Some services also run satellite clinics at other locations.

OH Departments aim to promote and maintain the physical, mental and social well-being of employees, looking at how work and work surroundings may affect people's health and also how an employee's health may affect their ability to work. Occupational Health services are confidential, independent and provide an advisory service to managers, focussing on fitness for work. Where an employee presents with a work related condition it aims to assist the employee in regaining good health and returning to suitable work as soon as his or her recovery allows. Services can be accessed either through self- referral or management referral.

As mentioned OH is also a preventative, health-promoting service. It achieves these objectives through links with local Safety Committees, the monitoring of local occupational illness and injury trends, the provision of information and advice, pre-employment screening, employee health surveillance, statutory medicals and preventative measures such as immunisation screening, vaccination and the delivery of an annual flu vaccination campaign. Advice is also given in relation to the prevention of sharps injuries and post exposure management.

Occupational Health services are not a treatment facility and are not a substitute for the employee's General Practitioner. OH services seek to benefit both the employee and employer.

Occupational Health records are kept separate from all other health or personnel records, under the sole control of Occupational Health staff who are bound by professional and ethical codes of practice.

An Occupational Health Advisors Group (OHAG) has been established, with the purpose of facilitating the integrated and consistent delivery of OH services across the sector in line with best practice and international standards. The Group is representative of Occupational Health Physicians and Occupational Health Nurses from across the Health Service. Regular meetings take place to review and contribute to any changes or developments which affect the role of OH services in the health sector.

Within Ireland Professional Societies/Associations exist for both Occupational Health Physicians and Occupational Health Nurses.

In support of and complementary to OH services, staff also have access to Employee Assistance Services (Employee Assistance Programme).

The Employee Assistance Programme (EAP) provides a confidential counselling support and referral service for all employees with personal or work related difficulties. Advice and guidance is also available to managers in dealing with staff welfare issues. In addition the EAP provides formal structured support to groups of staff who have experienced stress reactions as a result of a critical incident in the

work place. The service is provided by trained and experienced counsellors who are professionally qualified and bound by codes of conduct. The service is available to all employees for support with both personal and work-related concerns and is free of charge.

Finally, the Health Service has produced and continues to develop and review health and safety policy documents covering key risk areas and contributing to safe and healthy working conditions. The following list gives some examples of such policy documents:

- HSE Corporate Safety Statement
- Manual Handling and People Handling Policy
- Lone Working Policy and Guidelines
- Policy on the Prevention and Management of Latex Allergies
- Policy for the Prevention and Management of Stress in the Workplace
- Policy for Preventing and Managing Critical Incident Stress
- Dignity at Work Policy
- Policy on Management of Work Related Aggression and Violence

RESC 3§4 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that measures are taken to promote the progressive development of occupational health services.

58. The representative of Malta provided the following information in writing:

Access of workers to Occupational medicine / services

The duty to provide adequate occupational health services rests on the employer as stipulated by LN 36 / 2003. A number of employers (no data available) have in house expertise in this regard such as through the employment or contracting of occupational health service such as occupations nurses / or occupational medical practitioner. Some of the arrangements observed by OHSA include the decision to have visiting medical practitioners at places of work on designated days to medically assess workers and generally to ensure that the health of workers is being taken care e.g. by involvement in risk assessments. Other employers have opted to enter in to an arrangement with private health service providers to send employees outside of the work for the necessary check-ups.

RESC 3§4 NETHERLANDS

The Committee concludes that the situation in Netherlands is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively institute access to occupational health services for all workers in all sectors of the economy.

The Council of Europe's Committee of Social Rights (ECSR) has concluded that the situation in the Netherlands is not in conformity with article 3.4 of the Charter, on the ground that it has not been established that there is a strategy to progressively institute access to occupational health (osh) services for all workers in all sectors of the economy.

59. The representative of Netherlands provided the following information in writing:

Reaction of the Netherlands

I. The Dutch strategy concerning osh-services

The Committee states that, given the perceived lack of reply to its earlier requests for information, it is not in a position to conclude that there is a strategy concerning osh-services. The Netherlands does not share the Committee's conclusion. Therefore we shall present below the Dutch strategy. This strategy consists of a legal framework, the availability/accessibility of expert osh-service, sustaining facilities and supervision.

II. Working Conditions Act

The Working Conditions Act (WCA) provides the legal basis for occupational safety and health (osh) in the Netherlands (English text, see https://osha.europa.eu/fop/netherlands/en/legislation/index_html). This law applies to all economic sectors. As far as arrangements for expert support are concerned, especially the articles 12, 13, 14, 14a and 18 bear relevance.
Article 12, puts the obligation on employer and employees to work together to implement the osh-policy in the company. This includes discussions and cooperation with the Works Council or the employees involved, in case of absence of a Works Council. This obligation to work together applies as well to internal as to external osh-experts.
Article 13, stipulates that the employer has to organize support for osh-prevention and osh by means of one or more expert employees (socalled 'prevention workers').
Article 14, has to do with the situation in which the employer chooses to organize osh-care within the company. In this case the employer must organize support by osh-experts (of whom at least one has to be an occupational physician) or an internal osh-service .
Article 14a, concerns the situation in which the employer chooses to outsource osh-care to an external certified osh-service.
Article 18 of the law bears relevance as well. It states that the employer is obliged to give the employee periodically the opportunity to have a medical check up for reasons of prevention.
Summary: The law stipulates that employers and employees must cooperate and have consultations about osh and (moreover) provides rules for the (support of) expert osh-services. Expert osh-care for the company can be organized internally, in which case the employer is supported by a specific employee whose task is osh-prevention and by an oh-physician or an internal osh-service. In the Netherlands this way of organizing osh-care is referred to as 'the tailorcut-modus'. The idea is that osh-prevention is organized as much as possible within the company. However, if and when an employer chooses not to organize osh-care internally, he is obliged to enter into a contract with an external expert osh-service. This is referred to as 'dragnet- modus'.

III. OSH-service

An osh-service is a legal, certified, private and independant service organization in the field of osh. In order to operate legally, it needs to acquire a certificate, that is formally granted by the Minister of Social Affairs and Employment. In order to obtain a certificate an osh-service must apply at a certifying institute, named by the minister. This independant certifying institute checks the expertise, organizational set-up and quality of the osh-service. More specifically it checks whether the osh-service has sufficient and qualified personnel available in order to provide expert services to companies in an adequate way.
The tasks of an osh-service are as mentioned in the WCA:
- testing the risk assessment;

- execution of occupational health check-ups (the employer has to provide for the opportunity for the employee to periodically have a medical check-up);

- execution of medical examinations prior to an appointment (i.e. in case an employer wishes such examinations);

- assist, advice and support employers and employees to comply with their osh-obligations;

- advice the employer on how to deal with sickness absence and guidance.

Every osh-service must have at least 1 expert on each of the following fields of expertise, the socalled 'key disciplines', i.e.: occupational health (occupational physician), occupational hygiene (occupational hygiene expert), occupational safety (occupational safety expert) and occupational/organizational expertise (e.g. occupational psychologist).
The key osh-experts (usually) have an academic training. The occupational physician is a medical specialist, who is registered according to the 'Law on professions in the individual Health Care'. In addition to the key osh-experts, other experts may participate in an osh-service, e.g. occupational nurses, social workers, ergonomists etc.
The Netherlands are nationwide covered by osh-services (see www.arbo-advies.nl and www.zorgkaartnederland.nl/arbodienst). It is also worth mentioning that it occurs that social partners have taken action on branche level to secure osh-service, usually by means of collective bargaining arrangements. Some branches sometimes offer services by themselves and there are others that enter into a contract with external osh-services.
Summary: Access to key expert osh-care is organized and necessary provisions are made to ensure availability of osh-care. Furthermore, there are high quality training and education facilities for those who want to gain osh-expertise or become an osh-expert. Moreover osh-service can be obtained nationwide.

IV. Sustaining facilities

Part of the Dutch strategy, in connection with regulation and the availability of expert services, is based upon taking measures to help companies, especially sme's, to improve their osh-care. In this respect, several actions have been taken, such as:
- the development of simple and userfriendly digital tools that enable sme companies to make a risk assessment and deal with their risks. Meanwhile more than 160 tools are developed and available to branches (see www.rie.nl). OSH-services were involved in the development of these tools. The Dutch tools have been the basis for the Online Interactive Risk Assessment tool (OIRA) of EU-OSHA;

- the digital risk assessment tools are managed by the 'Servicepoint for risk assessment tools' of the social partners and they are financed by the government. The Servicepoint offers assistance to branches and aims at increasing the use of the digital tool. For that reason a virtual game is being developed for companies;

- the development of osh-catalogues, i.e. methods, techniques and solutions agreed upon by social partners within a branche to deal with their risks. These catalogues are checked by the 'Inspection-SZW' (the former Labour Inspectorate);

- the website www.arboportaal.nl provides relevant information to employers, employees and prevention-workers on osh and relevant links;

- the attempts of social partners to stimulate the policies within the company to tackle the risk of dangerous substances, are sustained by the government. This has resulted in a website

www.stoffenmanager.nl that aims at providing information about dangerous substances and occupational exposure limits;

- a stimulus for safety at work, by means of an 'Actionprogram safetyculture witin companies'. By means of a subsidy policy sme employers have been given the opportunity to implement projects to promote a safety culture in companies in order to reduce occupational accidents. Last year one of these projects won the European good practice award at the EU-OSHA conference in Dublin;

- in 2011 The Netherlands initiated the program 'Sustainable Work', in cooperation with the social partners and other stakeholders, in order to stimulate that workers can reach their pension in good health. Part of this programme is the project 'Healthy Company', that particularly aims at supporting and advising sme-companies how to work in a responsible way.

V. Supervision

Supervision on osh-services is organised as follows. First an osh-service is not allowed to operate without a positive asssessment by a certifying institute. Secondly, an osh-service may loose its certificate when it does not live up to its tasks. Furthermore, the way osh-expert support in the company is organized is an item that must have endorsement from the Works Council. Therefore the employee participation has the opportunity to assess the contract (or the extension of it) with an osh-service. And of course it can also put on the agenda the performance of the osh-service. Finally it is always an option that the 'Inspection-SZW' puts forward a demand to the employer to comply with the law, when the expert osh-support is not functioning well in his company.

VI. Conclusion

The Netherlands have a legal obligation for all employers to enter into a contract with either an occupational physician, an internal or external expert osh-service. Thus access to and availability of osh-care is guaranteed. An osh-service must have a certificate. Furthermore, a nationwide system of certified osh-services has been realised. Sustaining facilities have been organized in order to support companies to bring about adequate expert osh-care on the workfloor. Finally, there are provisions for supervision.
Therefore the Netherlands are convinced that we do comply with article 3.4 of the Charter.

RESC 3§4 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to institute access to occupational health services for all workers in all sectors of the economy.

60. Additional information is to be provided in the next National Report.

RESC 3§4 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively institute access to occupational health services for all workers in all sectors of the economy.

61. Additional information is to be provided in the next National Report.

ARTICLE 11 – RIGHT TO PROTECTION OF HEALTH

Article 11§1 - Removal of the causes of ill-health

RESC 11§1 ALBANIA

The Committee concludes that the situation in Albania is not in conformity with Article 11§1 of the Charter on the ground that it has not been established that public health services operate in an effective manner.

62. Additional information is to be provided in the next National Report.

RESC 11§1 AZERBAIJAN

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§1 of the Charter on the grounds that:

- *the measures taken to reduce infant and maternal mortality rates have been insufficient;*
- *public healthcare expenditure, in absolute terms and as a share of GDP, is too low*

First ground of non-conformity

63. The Representative of Azerbaijan said that significant measures had been taken in recent years to improve the quality of medical services provided to mothers and children. In addition, the overall social and economic stability of the country contributed to the reduction of maternal and infant mortality rates.

64. As a result the infant mortality dropped from 15.5 ‰ in 2003 to 10.8 ‰ in 2013. The maternal maternity dropped during the same period from 18.5 ‰ to 14.5 ‰.

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

Second ground of non-conformity

66. The Representative of Azerbaijan said that the 2014 budget allocation to public health amounted to 739 € thus multiplied by 13 since the year 2004. This figure was equal to 1.8 to 2 % of GDP and would be further increased.

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

RESC 11§1 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 11§1 of the Charter on the ground that migrant Roma do not enjoy an adequate access to health care.

68. The Representative of France asked to reply on the situations of non-conformity with respect to Articles 11§1, 11§2 and 11§3 at the same time since all situations reiterated findings of non-conformity decided upon in Complaint No. 67/2011 which also included other Articles such as Article 30 (The right to protection against poverty and social exclusion).

69. As part of the new procedure, France was about to prepare a report to be submitted by the end of October 2014 on the follow-up made to all collective complaints including Complaint No. 67/2011.
70. The Representative of France said that a number of new measures had been undertaken since 2012 to facilitate access to health care for vulnerable groups, the most important one being the introduction of health mediators. Each mediator was responsible for 200 persons.
71. The Representative of France again recalled the difference between Roma and Travelers. Whereas Roma were foreigners mostly of Romanian origin, Travelers were French citizens without a fixed residence. This difference was important, but led sometimes to confusion.
72. The GC:

- congratulated the French Government for the introduction of health mediators;
- took note of the information provided and
- decided to await the next assessment of the ECSR.

RESC 11§1 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 11§1 of the Charter on the grounds that:
- *the measures taken to reduce infant and maternal mortality rates have been insufficient;*
- *it has not been established that there is a public health system providing universal coverage.*

73. The Representative of Georgia informed the GC of progress made in the reduction of the infant and mortality rate in his country. Infant mortality dropped from 24.9 ‰ in 2000 to 13 ‰ in 2013. It had to be acknowledged that this rate was still the 2nd highest in Europe. As for the maternal mortality rate it was reduced by half by dropping from 49.2 ‰ in 2000 to 23 ‰ in 2013.

74. Since then the Government of Georgia had undertaken a number of organizational measures such as setting a Working Group which monitored on a continued basis the maternal and child health status with a view to further reducing the mortality rates in the future.
The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 11§1 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 11§1 of the Charter on the ground that measures taken to reduce the mortality rate have been insufficient.

75. The Representative of Hungary presented a number of legislative and organizational measures taken by the Government to address the mortality rate.

76. For example, in 2012 the Government took over from the local Authorities the rights and responsibilities with respect to in-patient care providers. The primary goal of this re-organization was to regroup complex cases into care centers that treated many cases, while treating simple cases in the least complex and most efficient organizational framework possible.

77. From a statistical point of view it was not yet established as to whether the measures taken succeeded in reducing the overall mortality rate.
78. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 11§1 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Republic of Moldova is not in conformity with Article 11§1 of the Charter on the grounds that insufficient efforts have been undertaken to reduce the prevailing high infant and maternal mortality rates.

79. The Representative of the Republic of Moldova explained numerous measures taken by her Government with the aim of lowering the high infant and mortality rate.

80. One the measures taken was the launch of a national strategy called 'Maternity without risk' in co-operation with the WHO. Its main aim was to raise the quality of service provided to pregnant women and new born babies.

81. In addition, a medical-social inter-sectorial co-operation started in 2011 with a view to reducing infant and children mortality below the age of 5 years. Also, the Government of the Republic of Moldova was about to implement the national strategy for the development of the health system which started in 2007 and will end in 2017.
82. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 11§1 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality rates have been insufficient.

83. With respect to infant mortality, the Representative of Romania reported on an evident downward trend in recent years. Starting from 2010 the index fell below 10.0 ‰ reaching 9.0 ‰ in 2012. Indeed, despite this positive trend Romania remained among the countries with the highest infant mortality rate in Europe.

84. Concerning maternal mortality, the Representative of Romania reported equally on positive developments, namely the drop from 0.83 ‰ in 1990 to 0.139 ‰ in 2009 to 0,070 ‰ in 2012. The Representative of Romania informed the GC on a number of projects currently being implemented with a view to further reducing maternal mortality.

85. These measures included a national program for the health of children and families which started its implementation in 2002 as well as a project carried out in co-operation with the World Bank, which aims at increasing information, education and awareness with respect to quality and efficiency of the health system. Another project was funded by the United Nations Fund which should improve the maternal mortality analysis.

86. In conclusion, the Government of Romania had put a considerable number of measures in place aiming at further reducing the infant and maternal mortality.
87. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 11§1 RUSSIAN FEDERATION

The Committee concludes that the situation in the Russian Federation is not in conformity with Article 11§1 of the Charter on the ground that insufficient efforts have been undertaken to reduce the high infant and maternal mortality rates.

88. The Representative of the Russian Federation announced a number of measures taken with a view to reducing the high infant and mortality rate. In order to enforce these measures, an important budget had been allocated to them at the federal level.

89. For example, access to health care was improved all over the country; waiting times had been considerably reduced.

90. As a result the maternal mortality dropped 24.2 % over the last five years; the infant mortality rate dropped 5.9 % from January 2013 to January 2014.
91. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 11§1 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 11§1 of the Charter on the ground of the prevailing high infant and maternal mortality rates.

92. No information provided

Article 11§2 - Advisory and educational facilities

RESC 11§2 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 11§2 of the Charter on the ground that opportunities for pregnant Roma women and children to have access to free and regular consultations and screening are insufficient.

93. See the reply given under Article 11§1 ESC.

RESC 11§2 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 11§2 of the Charter on the grounds that:

- *measures for counselling and screening of pregnant women and children are not adequate;*
- *it has not been established that prevention through screening is used as a contribution to the health of the population.*

94. Additional information is to be provided in the next National Report.

RESC 11§2 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 11§2 of the Charter on the ground that it has not been established that prevention through screening is used as a contribution to the health of the population.

95. The representative of Lithuania provided the following information in writing:

Education and awareness raising

Since 1993 Lithuania has joined network of health promoting European schools. In 2007 a description of the procedures for recognition of schools as health promoting schools was prepared. It lays down methods and criteria for health promoting schools.

Health promoting schools are in almost every municipality and every year their number is growing despite participation and activities being voluntary and unpaid.

Number of health promoting schools from 2008 until 2013 (around 20 percent of all schools):

2008	2009	2010	2011	2012	2013
182	267	271	299	318	353

There are 8 methodical recommendations prepared on how to become a health promoting school, how to plan activities and to assess them. Conferences, best practice sharing and training seminars are organised every year for those specialists working at schools and public health bureaus who are involved and participating in children's health promotion activities. Since activities of Lithuania were evaluated positively, the Third European Conference of health promoting schools "Better school – healthier school" was organized in Vilnius in 2009 and resolution of Vilnius was prepared. Noting 20th anniversary of National health promoting schools, a mass event "Wave of ideas of health promoting schools across Lithuania" was organized in Lithuania with 46 municipalities, more than 400 schools and 30 000 participants taking part in it.

Other health promoting initiatives

Every two years Ministry of Education and Science and Ministry of Health of the Republic of Lithuania are organising International pupils', teachers' and public healthcare specialists' competition "The most healthy of the most healthy". The aim of the competition is to build capacity in children and pupils' abilities to protect and strengthen own and others health and also to disseminate principles of healthy living among communities at schools. The first competition organised in 2002 became traditional one, it was repetitively organised in 2005–2006, 2008–2009, 2011–2012 and 2013–2014. For example, in 2011 more than 13 250 children from all regions of the country participated in the competition, more than 2 650 different children teams were set up, additionally about 700 teachers and around 640 schools' public health specialists participated in the competition.

Since 2012 every year according to recommendations of Ministry of Health of the Republic of Lithuania Municipalities' Public Health Bureaus carry out public measure of weighing pupils' school satchels. The goal of measure is to draw attention of pupils and their parents to school satchels' weight and their content as well as to heavy satchel's possible impact for child's health. During measure in 2012 53 555 pupils' satchels' weight was evaluated. Also types of satchels, satchel wearing ways and pupils' opinion about their worn satchel's weight were evaluated.

Since 2012 Centre for Disease Prevention and Health Training (CDPHT) is implementing campaign 'Evaluate the risks!' which aims at training children (12–17 years of age) about risk behaviour and its consequences. The goal of this campaign is to teach children to evaluate risk while doing what they like the most and at the same time to enable them to avoid traumas and problems. Public health specialists are trained how to apply this training programme and to be able to run lectures with children in those schools where they are working.

Lithuania (CDPHT) also participated in projects carried out by European Child Safety Alliance. While participating in Child Safety Action Plan project the following results were achieved: 1) Child Safety Report Card 2009 was created in order to be able to evaluate existing situation and to set priorities in the country in the field of children death and disability arising from injuries and to be able to evaluate project's progress later; 2) to set, disseminate and foster usage of good practice in the field of preven-

tion of children injuries; 3) to create Action plan on children safety. Also Report on National actions in the field of children deliberate injuries was created together with European Child Safety Alliance (while implementing project 'Tools to Address Childhood Trauma, Injury and Children's Safety').

Decade on road safety 2011–2020 is a world level initiative, dedicated to reduce number of injuries caused by traffic accidents. CDPHT represents this initiative in Lithuania and periodically organizes awareness–raising initiatives: trainings, competitions, press conferences, etc.

In 2013 pilot research project on schools' environment was carried out according to WHO Regional Office for Europe methodology. During the research sanitation and hygienic conditions at schools were evaluated, as well as smoking habits, impact of mould, humidity and ventilation, pupils' ways of traveling to schools. Added value of this research is increased pupils' interest in their own environment, habits, lifestyle.

International United Nations Economic Commission's for Europe and WHO Regional Office's for Europe European programme's seminar 'Transport, health and environment' will be held on 24–25 September 2014 in Lithuania. It is dedicated to foster understanding about integration of fields of transport, health and environment, increase physical activity, improve understanding of youth and of all community about balanced movement.
Lithuania implemented the social campaign "Saugok save" (Protect Yourself), funded by the EU structural funds for period 2007-2013. During the campaign 5 video and audio clips to promote health were prepared. Two of them were intended to reduce cardiovascular diseases by promoting healthy eating choices and active lifestyles. Others were designed for early diagnosis of oncologic diseases by encouraging people to adjust their lifestyles to eliminate the risk factors and reduce the risk of oncological diseases. Videos and information on cardiovascular diseases, prostate cancer, breast and cervical cancer prevention and screening programs were also posted on the website of National Health Insurance Fund.

Lithuania gives much attention on children's health - Parliament of the Republic of Lithuania on 19 December 2013 (Resolution No. XII-706) announced the year 2014 for children health. According to this resolution the Ministry of Health has developed the Children's Health promotion plan which provides:
1. measures to promote children and young people attitudes to health and healthy lifestyles;
2. measures on raising of public awareness of healthy lifestyle issues;
3. child health monitoring tools;
4. measures to raise awareness of safe behaviour skills.

Counselling and screening

Currently, four cancer screening programmes – cervical cancer, mammography screening, prostate cancer and colorectal screening, and one for cardiovascular screening are carried out in Lithuania. Screening Programmes are reimbursed from Compulsory Health Insurance Fund.

Cervical cancer screening programme started as a nationwide cervical cancer screening programme in the middle of 2004 in Lithuania. The target group of this programme is women between 25 and 60 years of age. There are about 887 447 women in the target population. The screening interval is 3 years. The implementation of the programme includes an invitation, smear test and assessment of the results, Pap examination.

Mammography screening programme started as a nationwide cancer screening programme in the middle of 2005 in Lithuania. The long-term aim of Lithuania's screening mammography programme is to reduce the country's mortality rate from breast cancer. Aimed at women between 50-69 years, the programme includes information about the value of breast cancer mammography and an invitation for screening, then examination. There are about 432 957 women in the target population. Each woman is offered screening once every two years.

Colorectal cancer screening programme aims to detect colorectal cancer at an early stage (in people with no symptoms) and reduce mortality due to this disease. This programme started in two largest regions – Vilnius and Kaunas districts in 2009 as a pilot project, since 2012 implementation of the programme was extended to another two regions – Klaipeda and Siauliai.

Prostate cancer screening programme started as a nationwide cancer screening programme in the middle of 2005 in Lithuania. The program aims to improve early-stage prostate cancer diagnosis, to reduce disability and mortality due to this disease. Aimed at men between 50-75 years, the programme includes information about the early diagnosis of prostate cancer and PSA detection service, specialist - urologist consultation and prostate biopsy service. There are about 395 265 men in the target population.

Cardiovascular screening programme is carried out since 2006 and is aimed at men between 40-55 years and women between 50-65 years belonging to high risk group of cardiovascular diseases. Program measures are applied once a year.
In 2011 the Ministry of Health and the National Health Insurance Fund (NHIF) organised research, aimed to evaluate effectiveness of Lithuanian screening programmes. The programmes were evaluated according to how they met the WHO adopted parallel programming principles and experience of foreign countries, according to established and approved prior to the start of the program performance evaluation criteria, targets and the cost-effectiveness analysis. Experts noted, that positive effect is demonstrated by analyzing the facts relating to the performance of these programmes. Almost each programme has the national cancer screening coordinating or administrative committee, consisting of pathologists, specialised doctors, GP, epidemiologists, representatives from NHIF and the Ministry of Health. The primary task of these committees is review the results and provide the advice to make necessary changes in the guidelines of screening programmes. Committees meet approximately twice a year and review the implementation of programs according to programmes performance indicators.

Currently in Lithuania new-borns for congenital metabolic diseases are examined for the two diseases such as phenylketonuria and hypothyroidism (Order No. V-865 of the Minister of Health of the Republic of Lithuania of 6 December 2004 “Regarding the Approval of Universal neonatal screening for congenital metabolic diseases description”.

RESC 11§2 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Republic of Moldova is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that:

- *screening for diseases responsible for high levels of mortality is available;*
- *free medical supervision is provided throughout the period of schooling.*

96. The representative of the Republic of Republic of Moldova provided the following information in writing:

Les mesures entreprises en vue de diminuer le taux de mortalité par les maladies cardio-vasculaires, cancer, tuberculose, y compris la consommation de l’alcool et de tabagisme:

La Décision du Parlement de la République de Moldova n 82 du 12.04.2012 a approuvé la *Stratégie nationale de prévention et de contrôle des maladies non-transmissibles pour les années 2012-2020.*

La Stratégie poursuit la prévention et la surveillance des maladies non-transmissibles en vue d’équilibrer les actions qui permettent d’éviter les causes qui produisent des maladies, l’invalidité et le décès prématuré avec les mesures d’amélioration des résultats dans le domaine de la santé et de la qualité de vie des personnes souffrant déjà de ces maladies.

Tenant compte du poids important des maladies cardio-vasculaires dans la morbidité et la mortalité de la population, la République de Moldova fait promouvoir une série de mesures pour dépistage précoce, le traitement de maintien et la prévention des complications de celles-ci. En vue de réaliser ces actions le Gouvernement a élaboré et a approuvé le **Programme national de prévention et de contrôle des maladies cardio-vasculaires pour les années *2014-2020***. L'objectif général du programme est l'augmentation de la durée de la vie de la population et la réduction de la mortalité cardio-vasculaire avec 10% jusqu'à 2020.

La diminution de la mortalité causée par le cancer peut être atteinte par le dépistage précoce des procès oncologiques (screening large de la population), l'application du traitement radical aux étapes initiales, ainsi que l'information et l'éducation pour la santé des personnes.

Comme suite le Ministère de la Santé a élaboré des Protocoles cliniques nationales concernant les mesures de prophylaxie et de traitement des diverses types de cancer.

Le screening de la population concernant les maladies oncologiques est effectué conformément au plan d'examen prophylactique annuel obligatoire qui comprend: contrôle de la peau, des glandes mammaires, des ganglions lymphatiques, de la glande tyroïde, l'examen pulmonaire microphotographique des groupes de risque, les examens gynécologiques prophylactiques avec l'échantillonnage de la cytologie tous les 2 ans pour les femmes de 25 à 64 ans.

La mortalité par tuberculose reste assez importante dans la République de Moldova. Les actions nécessaires pour sa diminution sont prévues dans le **Programme National de Contrôle de la Tuberculose pour les années 2011-2015.** Les services d'assistance médicale pour les patients avec tuberculose, y compris celle spécialisée d'ambulatoire et hospitalière sont accordés à toutes les personnes indifféremment du statut de la personne (assurée, non-assurée).

Dépistage des maladies

Les mesures de prophylaxie et de dépistage précoce des maladies représentent le vecteur principal du système médicale de la République de Moldova, stipulé dans la Loi de la protection de la santé n 411 du 28.03.1995, le Programme unique de l'assurance sociale d'assistance médicale et une série d'Ordres du Ministère de la Santé sur l'intensification des activités prophylactiques d'assistance primaire.

La liste d'examens et des investigations médicales prophylactiques obligatoires a été établie pour toute la population en fonction des groupes de risques qui comprend:

Examens des maladies de l'appareil circulatoire
Examen de diabète
Examens des tumeurs malignes
Examens pour les Infections sexuellement transmissibles
Examens pour le glaucome
Examens de tuberculose

Les examens prophylactiques cités sont effectués pour toute la population, y compris pour les personnes non-assurées, et sont couverts du fonds des assurances obligatoires d'assistance médicale. Le rapport sur la couverture de la population avec les examens médicaux prophylactiques est effectué une fois par trimestre par les institutions d'assistance médicale primaire dans les comptes rendus statistiques de secteur (F 055 san) adressés au Centre National de Management dans la Santé.

Motif 2 Contrôle médical pour la période de scolarisation

A présent les services médicaux sont accordés à la base de la contribution dans le fonds des assurances obligatoires d'assistance médicale (AOAM) qui représentent un système garanti d'Etat de protection des intérêts de la population dans le domaine de la protection de la santé. Le

système de l'assurance obligatoire d'assistance médicale offre aux citoyens de la République de Moldova des possibilités égales dans l'obtention de l'assistance médicale opportune et qualitative.

En conformité avec la Loi sur l'assurance obligatoire d'assistance médicale n1585-XII du 27.02.1998 **le Gouvernement a la qualité d'assure pour une série de catégorie de personnes socialement vulnérables*:***

a) enfants d'âge préscolaire;
b) élèves de l'enseignement primaire, de gymnase, lycée et secondaire;
c) élèves de l'enseignement secondaire professionnel;
d) élèves de l'enseignement moyen de spécialité (collèges) avec des cours de jour;
e) étudiants de l'enseignement supérieur universitaire avec des cours de jours, y compris ceux qui font leurs études a l'étranger;
f) résidents de l'enseignement postuniversitaire obligatoire et doctorants des cours de jour, y compris ceux qui font leurs études à l'étranger;
g) enfants non-scolarises jusqu'à l'âge de 18 ans.

Comme suite l'assistance médicale est assurée au cours de toute la période de scolarisation.

RESC 11§2 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that prevention through screening is used as a contribution to the health of the population.

97. Additional information is to be provided in the next National Report.

RESC 11§2 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that:

- *counselling and screening for pregnant women and children are frequent enough or that the proportion of mother and children covered is sufficient;*
- *prevention through screening is used as a contribution to the health of the population.*

98. The representative of Romania provided the following information in writing:

The Committee noted that counselling and screening for women and children were, but requested further information on the types of screening and counselling that were carried out.

From the analysis carried out through the two types of certificates, of maternal death by direct causes – complications of pregnancy, childbirth and postpartum - (direct obstetrical risk and abortion) or indirect causes (indirect obstetrical risk and collateral causes), it results that in 2012 in Romania, 26 pregnant women died, in the post-abortion period (30 days) or in the postpartum period (42 days post-birth). Although, in accordance with the WHO definitions in force, the direct obstetrical risk deaths, indirect obstetrical risk and abortion are being included in the calculation of maternal mortality, not all countries include indirect obstetrical risk deaths in the calculation of maternal mortality. Therefore, the comparisons with other countries may be distorted.

The only European information on the maternal mortality concerns the deaths caused by abortion, haemorrhage, toxaemia and puerperal infection. There are no indicators on maternal deaths by indirect causes (indirect obstetrical risk and collateral causes, namely accidents). Also, it is not known if in

the maternal mortality indicator are also included the indirect maternal deaths. (from the report of the National Centre for Public Health Statistics and Information).
Infant mortality remerges from 2005 through the demographic indicators with a positive course. After 2004, when its value slightly increased (16.8‰), since 2005 the downward trend has become obvious and the indicator steadily has descended from 15‰ live births to 13.9‰ (2006), 12.0‰ (2007), 11.0‰ (2008), 10.1‰ (2009) and below 10.0‰ in 2010 (9.8‰), 2011 (9.4‰) and in 2012, when descends to 9.0‰.

The number of deaths under one year of age is steadily decreasing since 2004 from 3641 to 3052 in 2006 and falls below 3000 in 2007 when 2574 deaths under one year of age were registered. Since 2008 the deaths under one year of age drop from 2434 to 2078 in 2010. The positive course continues in 2011(1850) when the number of infant deaths falls below 2000 cases and reaches minimum in 2012 with 1812 deaths. (from the report of the National Centre for Public Health Statistics and Information).

RESC 11§2 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 11§2 of the Charter on the ground that it has not been established that counselling and screening of the population at large as well as of children and adolescents, through school medical check-ups, are adequate

99. Additional information is to be provided in the next National Report.

RESC 11§2 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that:
- *public information and awareness raising is a public health priority;*
- *prevention through screening is used as a contribution to the health of the population.*

100. Additional information is to be provided in the next National Report**.**

Article 11§3 - Prevention of diseases and accidents

RESC 11§3 ALBANIA

The Committee concludes that the situation in Albania is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that:
- *adequate measures have been taken to prevent smoking;*
- *efficient immunisation and epidemiological monitoring programmes are in place.*

101. Additional information is to be provided in the next National Report**.**

RESC 11§3 ANDORRA

The Committee concludes that the situation in Andorra is not in conformity with Article 11§3 of the Charter on the grounds that it has not been established that:
- *appropriate measures have been taken to prevent smoking;*
- *appropriate measures have been taken to prevent accidents.*

102. The representative of Andorra provided the following information in writing:

1. Les mesures prises par le Gouvernement pour prévenir le tabagisme et l'alcoolisme sont les suivantes :

En ce qui concerne le tabac :

Le Décret du 16 juin 2004 qui régit certains aspects de la vente et de la consommation de produits de tabac (Voir Sous-Annexe 1) établit :

- L'interdiction de vendre, offrir pour la vente ou livrer à des mineurs de moins de 18 ans des produits tabagiques et autres produits qui imitent ou incitent à fumer (art. 3.1)
- L'interdiction de vendre des produits tabagiques dans les centres et établissements sanitaires, centres d'enseignements ; garderies et établissements dont la plupart de la clientèle est jeune, et a moins de 18 ans (article 4)
- La vente au moyen de distributeurs automatiques ne peut se faire qu'à l'intérieur des établissements et ne peut s'effectuer que dans les lieux énoncés à l'article 4

- L'interdiction d'utiliser des distributeurs automatiques aux mineurs de moins de 18 ans (article 5.2)

De nouvelles mesures ont été prises pour prévenir el tabagisme et assurer aux non fumeurs une protection efficace contre les fumées émises par la combustion de n'importe quel produit du tabac notamment par l'approbation de la Loi 7/2012, du 17 mai, relative à la protection contre le tabagisme passif environnemental (Voir Sous-Annexe 1).

L'article 2.1 de cette Loi, définit l'interdiction de fumer dans les établissements publics et parapublics (depuis le 25 juillet 2012) et dans les établissements privés et zones de travail (depuis le 13 décembre 2012).

Néanmoins, des espaces pour fumeurs dans les établissements privés et dans les zones de travail privées sont autorisés ainsi que dans les centres de détention et de privation de liberté, etc. qui pour différents motifs doivent offrir la possibilité de fumer. Ces salles doivent respecter les critères qui sont requis dans le Règlement du 26/09/2012 qui définit les critères que doivent respecter les salles pour fumeurs, le contrôle, la surveillance et la signalisation de ces salles et des espaces où il est interdit de fumer (Voir Sous-Annexe 1).

En ce qui concerne l'alcool :

Le décret du 16 juin 2004 qui définit certains aspects de la vente et de la consommation de boissons alcoolisées (Voir Sous-Annexe 2) régit les aspects relatifs
à la vente d'alcool et notamment :

- L'interdiction de consommer des boissons alcoolisées aux moins de 18 ans dans les lieux publics et aux personnes qui offrent un service par le biais d'une activité qui peut mettre en péril la vie ou l'intégrité physique d'un tiers (article 2)
- L'interdiction de vendre et de fournir des boissons alcoolisées aux moins de 18 ans et aux personnes qui présentent des indices ou symptômes d'intoxication éthylique (article 3).
- L'interdiction de vendre et de fournir des boissons alcoolisés dans les centres éducatifs (à l'exception de l'université et des centres d'enseignement supérieur) et les locaux et centres pour enfants et jeunes.

Le Décret du 23 mars 2011 régissant la consommation de boissons alcoolisées sur la voie publique établit l'interdiction de consommer de l'alcool en groupe sur la voie publique et dans les espaces publics où cette conso mmation serait susceptible d'altérer la tranquillité et l'ordre public, excepté pour les majeurs dans des espaces publics ouverts autorisés à cet effet. En ce sens, il s'agit d'une mesure qui prétend protéger la population jeune de la consommation d'alcool en groupe sur la voie publique et garantir le bon voisinage et l'ordre public.

De plus, il est important de mentionner aussi les différents programmes de sensibilisation mis en place durant l'année scolaire 2013-2014 entre le Ministère de l'Education et de la Jeunesse et d'autres entités qui sont les suivantes :

Ministère de la Justice et de l'Intérieur

Plan de prévention des conduites délictuelles

Le Gouvernement a approuvé, lors de sa session du 10 mars 2010, un plan de prévention des conduites délictuelles dirigé aux élèves des trois systèmes éducatifs d'Andorre. L'objectif de ce plan est de prévenir la participation des mineurs aux actes délictuels. Une équipe formée par le personnel du Ministère de la Justice et de l'intérieur (un représentant du Département de Police, le psychologue du Service de Mineurs, et un représentant des Institutions Pénitentiaires) a mené de novembre 2013 à mai 2014, différentes formations auprès des élèves de 4ème de tous les centres scolaires.

Ministère de la Santé et du Bien-être

Atelier « Parlons de l'alcool et d'autres drogues ».
Cet atelier s'est adressé aux élèves de seconde (15-16 ans). Son objectif est d'avertir les jeunes des possibles propositions de drogues et de retarder au maximum le début du contact avec ces substances. Tous les centres scolaires y ont participé.

Atelier sur la prévention de la consommation de cannabis
La 6ème édition de l'Atelier sur la prévention de la consommation de cannabis a eu lieu en 2013-2014 dans le cadre de l'Education pour la Santé à l'Ecole. Son but est de créer un espace de débat qui incite à la réflexion et à l'analyse des situations que
vivent les jeunes avec la consommation de cannabis. Cet atelier s'adresse aux jeunes de 13 et 14 ans qui sont en 4ème. Les ateliers ont eu lieu de novembre à janvier et y
ont participé 725 élèves ce qui représente un 95,65% de la population destinataire de l'atelier.

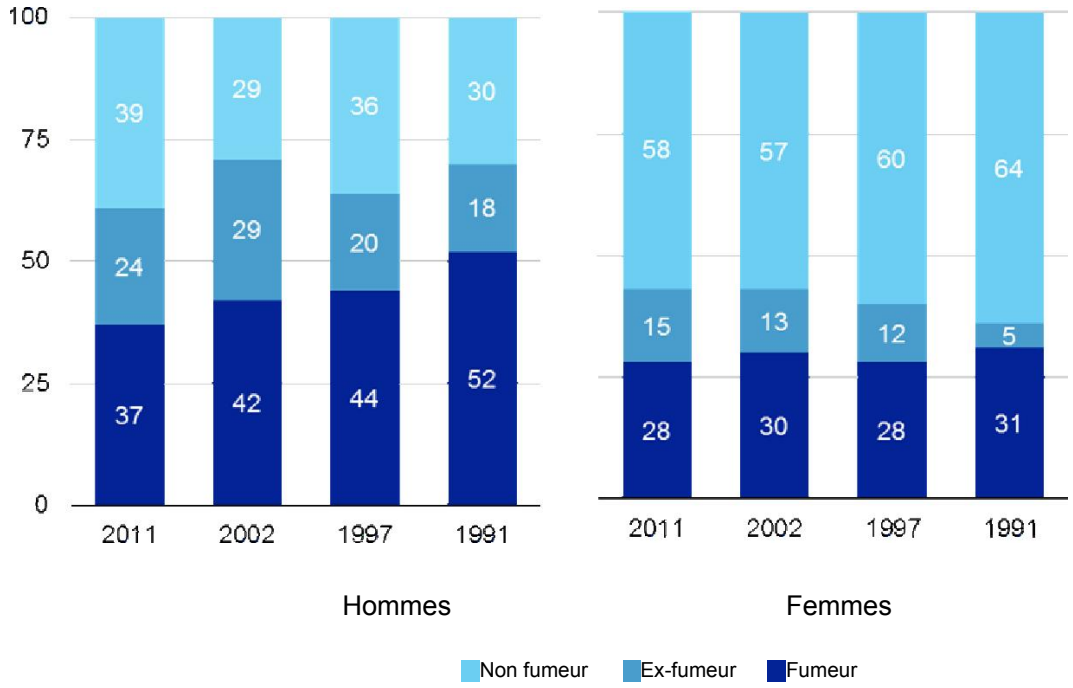
STATISTIQUES

En ce qui concerne les statistiques, la 4e édition de « l'Enquête Nationale de la Santé d'Andorre » (ENSA) a eu lieu en 2011. Lors de cett e édition plusieurs données ont été analysées, en particulier, celles relatives à al consommation de tabac et d'alcool.

Les résultats de cette enquête sont disponibles sur le site web du Ministère de la Santé et du Bien-être (www.salut.ad).

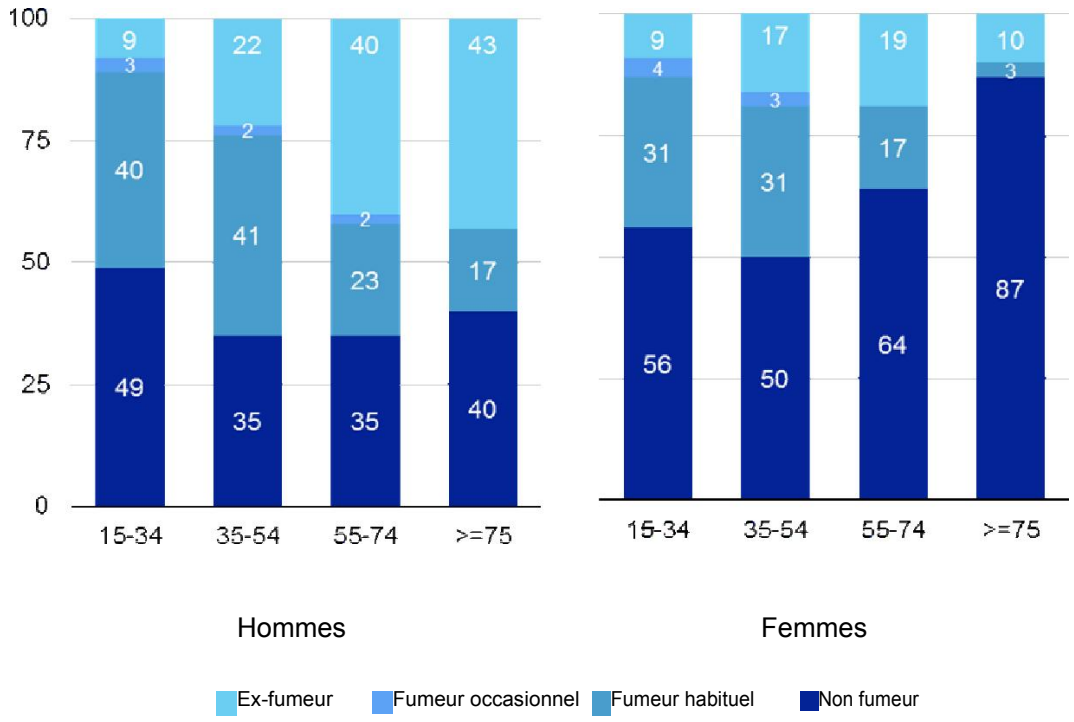
Vous trouverez ci-dessous, quelques uns des résultats :

Consommation de tabac selon sexe en pourcentage



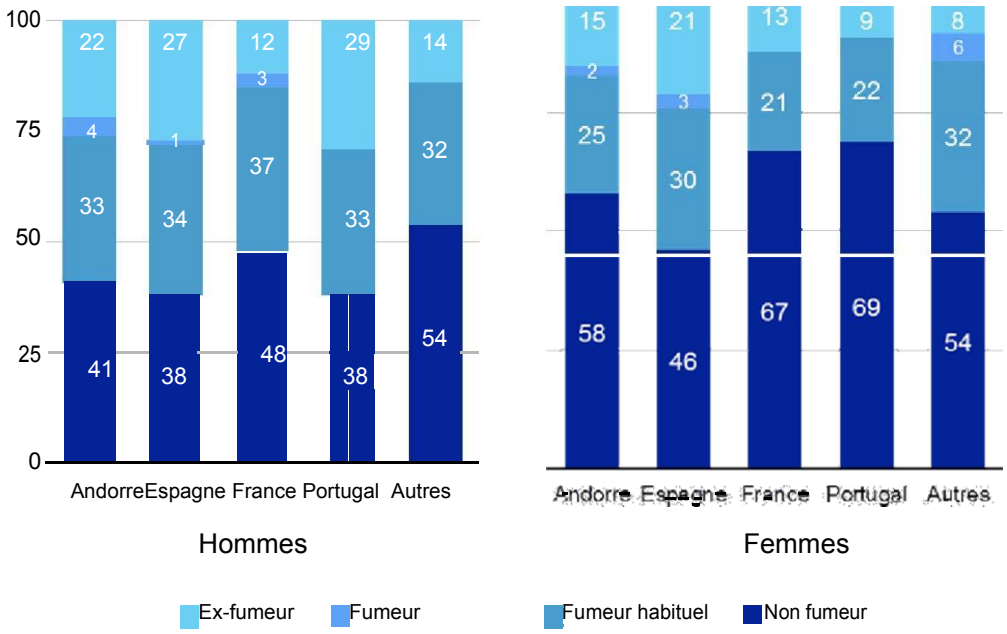
Le graphique montre la répartition de la consommation de tabac selon le sexe. En ce qui concerne les hommes, nous observons une diminution des fumeurs et une augmentation des non fumeurs. Pour ce qui est des femmes, il y a une augmentation des ex-fumeuses et les non fumeuses diminuent légèrement.

Consommation de tabac selon le groupe d'âge et le s exe en pourcentage



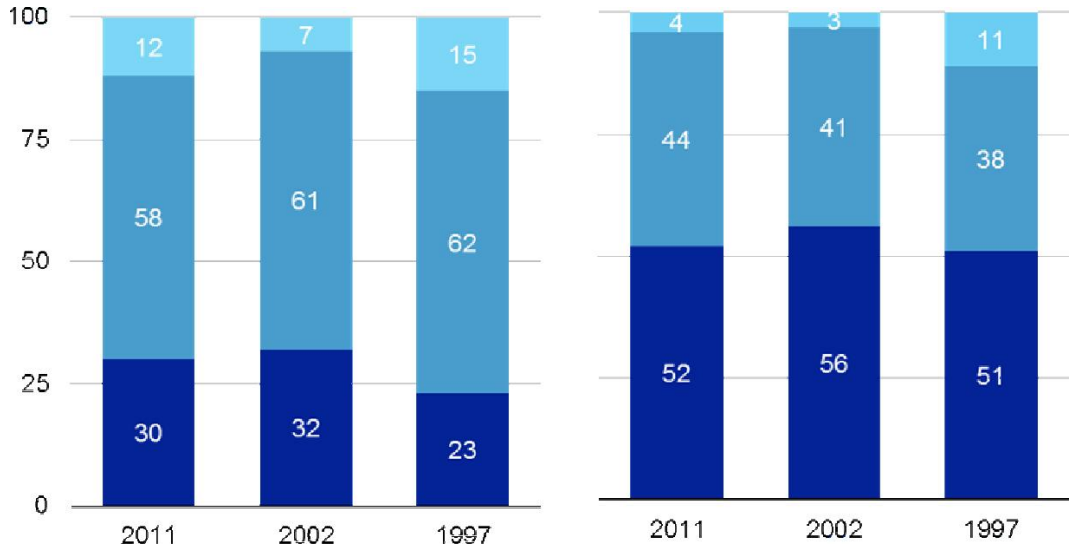
En général, la consommation de tabac est supérieurepour les hommes de tous les groupes d'âge même si les femmes d'entre 15 et 54 a ns présentent un pourcentage plus élevé de consommation occasionnelle. La consommation habituelle est plus fréquente parmi les jeunes et diminue lorsque l'âge augmente.

Consommation de tabac selon le pays de naissance et le sexe en pourcentage standardisé par âge



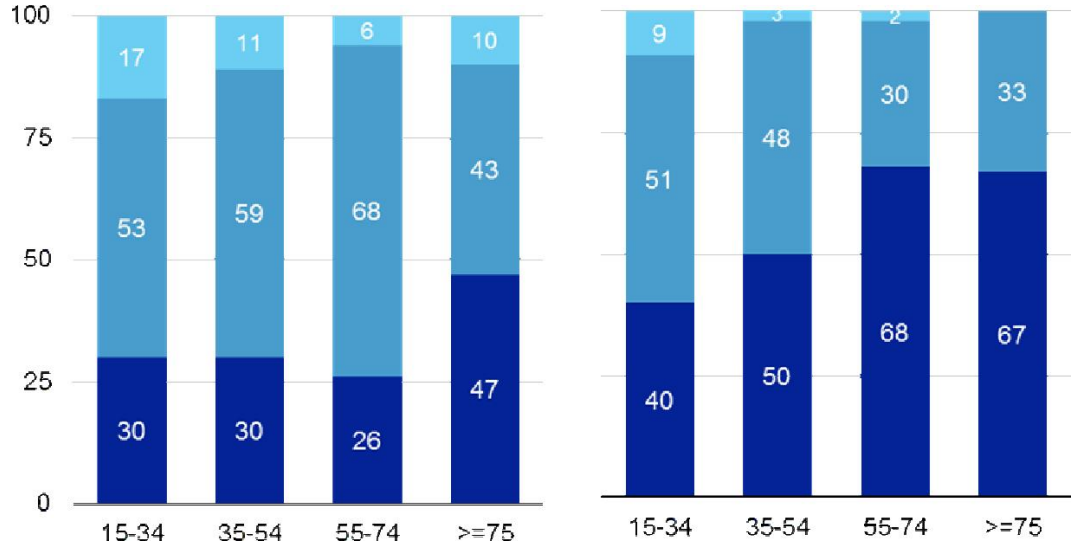
Dans ce graphique, nous observons des différences selon le pays de naissance. Le groupe le plus élevé de fumeurs habituels est celui formé par les français (37%), et en ce qui concerne les femmes il s'agit de celui qui est issu de l'Espagne (29,8%).

Consommation d'alcool selon le sexe



Ce graphique montre la consommation d'alcool par sexe selon l'enquête actuelle, celle de 2002 et celle de 1997. Nous observons une augmentation des buveurs à risque en ce qui concerne les hommes et les femmes, et une diminution des abstinents par rapport à 2002.

Consommation d'alcool la dernière année selon le groupe d'âge et le sexe en pourcentages



Le pourcentage de consommation d'alcool à risque est supérieur parmi les jeunes car il est de l'ordre de 17,4% pour les hommes et de 9,2% pour les femmes entre 15 à 34 ans.

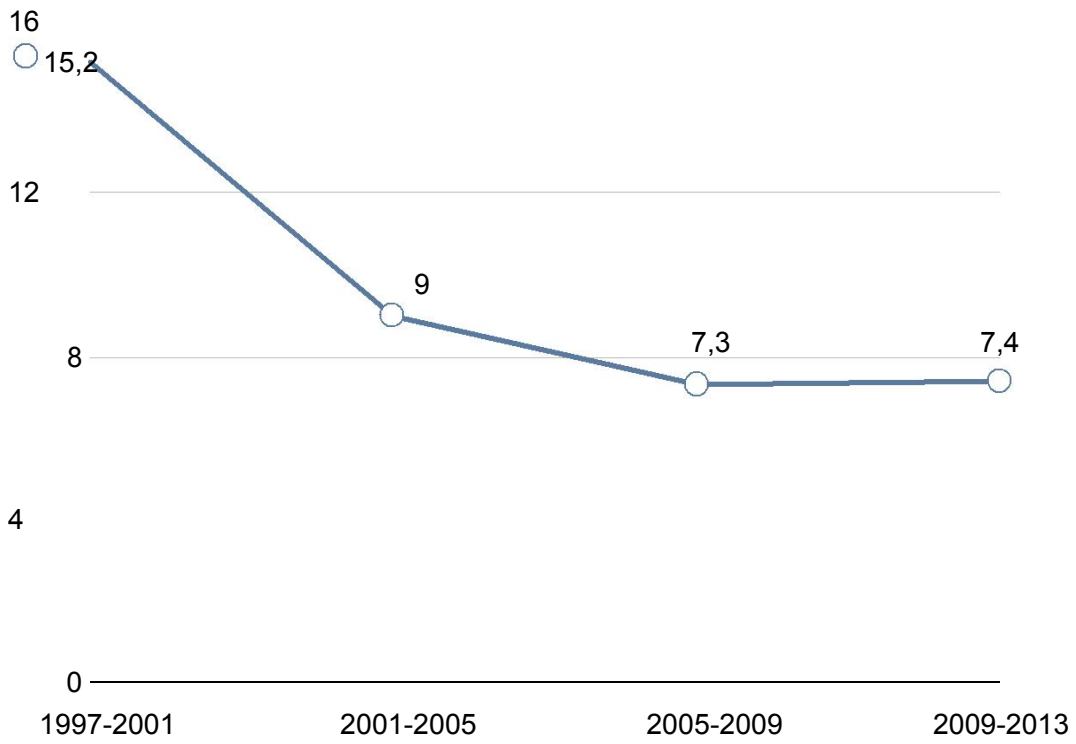
2. La vaccination et la surveillance épidémiologique

En ce qui concerne la vaccination et la surveillance épidémiologique, les résultats du programme de tuberculose sont favorables car il a permis de passer d'un taux d'incidence de 15,2 de 1997-2001 à un taux d'incidence de 7,4 de 2009-2013.

Les résultats sont disponibles sur le site web du Ministère de la Santé et du Bien-être (www.salut.ad).

Vous trouverez ci-dessous, quelques uns des résultats :

Taux d'incidence par 100.000 habitants en Andorre selon 5 années



3. Les mesures prises par le Gouvernement pour prévenir les accidents sont les suivantes :

En ce qui concerne les mesures préventives que le Gouvernement a adopté pour réduire les accidents et améliorer la sécurité routière, il faut savoir que le réseau routier de l'Andorre a une longueur approximative de 250 km et dispose de 9 radars de contrôle.

De plus, entre 2011 à 2012, la Radio et Télévision d'Andorre a diffusé différentes campagnes de sensibilisation. Les titres étaient les suivants:

- Equipe ton véhicule avec des pneus de contacts, munis-toi de chaînes en hiver
- Comment circuler dans les ronds point
- Bien garer ta voiture est un acte de bonne convivialité et de civisme
- Les couleurs de la neige

Il est important de mentionner aussi les différents programmes de sensibilisation mis en place durant l'année scolaire 2013-2014 entre le Ministère de l'Education et de la Jeunesse et d'autres entités qui sont les suivants :

Ministère de la Justice et de l'Intérieur

Formation sur les premiers secours pour enfants (PAPI)
Les moniteurs de la Croix Rouge Andorrane s'occupent de donner cette formation aux élèves de 10 à 12 ans des trois systèmes éducatifs. La formation est de 9 heures et les techniques qui sont enseignées permettent aux jeunes d'agir dans les situations difficiles de la vie quotidienne mais aussi d'apprendre à les surmonter avec efficacité. La 5ème édition a eu lieu pendant le cours scolaire 2013-2014.

Formation sur la prévention et les secours civiques de niveau 1 et des risques naturels d'Andorre (2013-2014)
Cette formation a été organisée par la Croix Rouge Andorrane, le Département de protection Civile d'Andorre et le Centre d'Etudes de la Neige et de la Montagne d'Andorre (CENMA) de l'Institut d'Etudes Andorranes. La formation s'adresse aux élèves qui sont en dernière année d'enseignement obligatoire des trois systèmes éducatifs. L'objectif de ce cours est de continuer la formation des premiers secours que les élèves d'entre 10 et 12 ans ont réalisé afin d'élargir les contenus et d'inclure des connaissances sur les risques naturels d'Andorre. La durée de ce cours est de 10 heures. Les 7 premières heures sont relatives aux premiers secours et les trois autres aux risques naturels.

À la fin de la formation, les élèves reçoivent un ertificat officiel du Gouvernement d'Andorre qui est livré par le Département de Protection Civile et de Gestion des urgences du Ministère de l'Intérieur.

Forces électriques d'Andorre (FEDA)
Le Département de Sécurité, d'hygiène, et de l'environnement de FEDA a offert des cours sur la prévention des risques électriques et sur le bon usage de l'énergie. Cette formation s'adresse aux élèves de CM1, CM2 et de 6ème des trois systèmes éducatifs. La durée est d'une heure. Les sessions ont eu lieu entre le mois d'avril et juin 2014. 14 écoles se sont inscrites et 32 groupes-classes se sont

formés avec des élèves d'entre 10-12 ans.

Le Ministère de l'Education et de la Jeunesse pilote conjointement avec les Mairies, plus particulièrement, avec les agents de circulation un programme d'éducation à la sécurité routière qui a pour objectif de former et de sensibiliser les jeunes de notre pays à l'éducation routière. Ce programme existe depuis 14 ans.

Lors de l'année scolaire 2013-2014, vous trouverez ci-dessous quelques données relatives aux élèves qui ont assisté à ce programme:

Age	Nombre d'élèves
4-6 ans	939
6-8 ans	845
8-10 ans	774
10-12 ans	584
14-16 ans	1042

RESC 11§3 AZERBAIJAN

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§3 of the Charter on the ground that the legislation does not prohibit the sale and use of asbestos.

103. Additional information is to be provided in the next National Report**.**

RESC 11§3 BULGARIA

The Committee concludes that the situation in Bulgaria is not in conformity with Article 11§3 of the Charter on the grounds that it has not been established that there are adequate measures in force for the prevention of road and domestic accidents.

104. Additional information is to be provided in the next National Report.

RESC 11§3 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 11§3 of the Charter on the ground of a lack of prevention of diseases and accidents in the Roma community.

105. See the reply given under Article 11§1 ESC.

RESC 11§3 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures have been taken to ensure access to safe drinking water in rural areas

106. Additional information is to be provided in the next National Report.

RESC 11§3 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 11§3 of the Charter on the grounds that:

- *it has not been established that adequate measures are in place to prevent the risks arising from asbestos*
- *it has not been established that adequate measures are in place to prevent and reduce accidents.*

107. The representative of Ireland provided the following information in writing:

ASBESTOS
The placing on the market, supply and use of asbestos fibres of all types, and of products containing asbestos fibres, is now prohibited under the EU Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation. The restriction on asbestos fibres and products containing these fibres that applies in Ireland is contained in Annex XVII of the REACH Regulation.

The legislation prohibits the use, reuse, sale, supply, further adaptation etc. of materials containing asbestos fibres. The restriction conditions for asbestos fibres can be found in entry no. 6 of Annex XVII of the REACH Regulation, amended by Regulation (EC) No. 552/2009. The Health and Safety Authority is the lead Competent and Enforcement Authority for REACH in Ireland. Enforcement of REACH is facilitated under the Chemicals Acts 2008 and 2010. Further information on the REACH regulation can found on the REACH webpages of the HSA website www.hsa.ie.

The Chemicals (Asbestos Articles) Regulations 2011 ("CAA") (S.I. No. 248 of 2011), which came into operation on 31 May, 2011, specify how the Health and Safety Authority may issue a certificate to exempt an asbestos-containing article, or category of such articles, from the prohibition on the placing on the market of an asbestos-containing article provided for by Article 67 and Annex XVII of the EU REACH Regulation 1907/2006. The purpose of the CAA Regulations is to give effect to provisions laid down in the second subparagraph of paragraph 2 of Entry 6 (6.2.2) of Annex XVII to the REACH Regulation (see Regulation 552/2009). Under 6.2.2, Member States are allowed to decide whether or not to allow the placing on the market of second hand articles (i.e. articles installed or in service before 1st January 2005) containing asbestos fibres at a national level.

See more at:
http://www.hsa.ie/eng/Your_Industry/Chemicals/Asbestos/Legislation/#sthash.pbL1EKEu.dpuf

In addition, there is other relevant legislation which regulates the use and further restriction of asbestos and asbestos containing materials in Ireland. The Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations, 2006 (S.I. No. 386 of 2006), amended by S.I. No. 589/2010, aim to protect the health and safety of all employees who may be exposed to dust from asbestos containing materials, during the course of their work activities. The regulations apply to all work activities and workplaces where there is a risk of people inhaling asbestos dust.

See more at:

http://www.hsa.ie/eng/Your_Industry/Chemicals/Asbestos/Legislation/#sthash.pbL1EKEu.VYVJqlgK.dpuf

Health and safety requirements for asbestos
Health and safety legislation govern the removal and disposal of asbestos and the methodology adopted for the removal and disposal of asbestos in each case is specific to the risks identified and dependant on the type of asbestos. The Health & Safety Authority (HSA) is the appropriate body to contact with regard to the handling of asbestos. Significant information relating to the handling of waste asbestos containing materials is available from the HSA and queries concerning working with asbestos should be directed to the Health & Safety Authority (HSA).

In 2013, the HSA published comprehensive guidelines on 'Asbestos-Containing Materials (ACMs) in Workplaces'. Section 17 of the Guidelines describes the management and disposal of ACMs and Appendix 2 addresses the management of asbestos-containing materials, including specific guidance on asbestos cement. This publication is available here:
http://www.hsa.ie/eng/Publications_and_Forms/Publications/Chemical_and_Hazardous_Substances/Asbestos-containing_Materials_ACMs_in_Workplaces_-_Practical_Guidelines_on_ACM_Management_and_Abatement.html

Steps taken to detect the presence of asbestos in residential and public buildings
The Health and Safety Authority has responsibility for the regulation of health and safety in workplaces. In relation to privately owned residential properties, there are new responsibilities for homeowners where they plan to undertake construction related work. Duties on homeowners are contained in the Safety, Health and Welfare at Work (Construction) Regulations 2013 (S.I. No. 291 of 2013). These regulations require that the homeowner appoints project supervisors where there may be a particular risk such as asbestos. Further information can be found in the following HSA guidance document.

http://www.hsa.ie/eng/Publications_and_Forms/Publications/Construction/homeowners_guidance.pdf

Asbestos Waste
The primary responsibility for the management of any waste, including costs for removal or disposal, lies with the holder of the waste, i.e. the natural or legal person in possession of the waste, or the producer of the waste.

The provisions of the EU Waste Framework Directive (2008/98/EC) have been transposed into Irish law through the Waste Management Act 1996 & S.I. No. 126 of 2011 (EU Waste Directive) Regulations. The legislation places a duty of care on the producers of waste to ensure that the waste does not present a risk to human health or the environment.

In particular, regulation 32 of S.I. No. 126 of 2011 requires that;

(1) A person holding, treating or otherwise in control of waste shall ensure that waste management is carried out without endangering human health, without harming the environment and, in particular—
(a) without risk to water, air, soil, plants or animals,
(b) without causing a nuisance through noise or odours, and
(c) without adversely affecting the countryside or places of special interest.
(2) A person who contravenes paragraph (1) shall be guilty of an offence.

(3) The Agency and the local authorities shall, in carrying out their respective functions under the Act of 1996, take the necessary enforcement measures to ensure that waste management is carried out in accordance with paragraph (1).

With regards the control of hazardous waste, Regulation 33 (1) of S.I. No. 126 of 2011 requires that it shall be the duty of waste producers and waste holders to ensure that the production, collection and

transportation of hazardous waste, as well as its storage and treatment, are carried out in conditions providing protection for the environment and human health.

In addition, in the case of hazardous waste, a holder of waste is required, without delay, to inform both the Local Authority concerned and the Environmental Protection Agency of any loss, spillage, accident or other development concerning that waste which causes or is likely to cause environmental pollution. Enforcement actions against illegal waste activity are a matter for the Local Authorities and the Office of Environmental Enforcement (OEE) within the EPA.

Section 32 of the Waste Management Act 1996 (as amended), also imposes a general duty of care on holders of waste.

Subsection (1) states that a person shall not—

(a) cause or facilitate the abandonment, dumping or unauthorised management or treatment of waste, or

(b) hold, transport, recover or dispose of waste, or treat waste, in a manner that causes or is likely to cause environmental pollution.

Section 32 also provides that it shall be the responsibility of the original waste producer or other waste holder to carry out the treatment of waste himself or herself or have the treatment handled by a dealer or an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector.

Furthermore Section 32 provides that the EPA, the local authorities and Dublin City Council shall take the necessary measures to ensure that, within their territory or area of responsibility, the establishments or undertakings which collect or transport waste on a professional basis deliver the waste collected and transported to appropriate treatment installations.

Waste technical requirements
Waste management, including the disposal of waste asbestos containing materials comes under the remit of the provisions of the Waste Management Act 1996 (as amended) and S.I. No. 126 of 2011 (EU Waste Directive) Regulations as referred to above.

Classification
Asbestos waste is classified as hazardous waste under European waste legislation, and a specific code applies to waste construction materials containing asbestos (EWC 17-06-05*).

Treatment/Disposal
Within the State, waste asbestos containing materials can only be disposed of at a waste facility licensed by the EPA. Currently however, there is no facility currently operational for the acceptance of asbestos for disposal in Ireland. Prior to any demolition work or remediation of materials containing asbestos, a hazardous waste transfer station licensed by the EPA should be contracted with a view to arranging to have the asbestos waste transferred for treatment/disposal at an appropriate facility abroad. Additional general information on asbestos, including information on disposal and hazardous waste transfer facilities can be obtained from the Environmental Protection Agency's website http://www.epa.ie/waste/hazardous/asbestos/

Transport
Asbestos waste must only be surrendered to a waste collection permit holder authorised under the Waste Management (Collection Permit) Regulations 2007, to collect this type of waste. Offaly County Council was appointed as the National Waste Collection Permit Office (NWCPO) and has been in op-

eration from the 1st February 2012. NWCPO's role is to accept and process all new and review Waste Collection Permit applications for all Waste Management Regions in the Republic of Ireland. NWCPO also carry out additions and amendments to existing Waste Collection Permits. For further details, please refer to their website: http://www.nwcpo.ie/

As a hazardous waste, the movement of asbestos waste within the State is also subject to a notification procedure, and the European Communities (Shipments of Waste exclusively within Ireland) Regulations 2011 designate the National Transfrontier Shipment Office (NTFSO) in Dublin City Council as the sole competent authority for the administration of hazardous waste movements within Ireland. The NTFSO has set up an electronic tracking system in accordance with the provisions of these Regulations, and establishments or undertakings which produce collect or transport hazardous waste on a professional basis and consignees of waste containing asbestos are obliged to comply with the requirements of the NTFSO concerning the completion and use of waste transfer documents. Furthermore, the Regulations oblige a waste producer or waste holder to take appropriate steps to obtain documentary evidence that any consignment of hazardous waste which is moved on his or her behalf by a carrier is received by the relevant consignee.

The amount of asbestos which was notified, via the Waste Regulation Management System, as moving within the State during 2012 and 2013 was as follows:

2012 – 5,422 tonnes
2013 – 6,057 tonnes

Where asbestos waste is being transported, the Health and Safety Authority has a regulatory role in relation to the transport of asbestos containing waste by road in Ireland. The European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 (S.I. No. 349 of 2011) as amended by S.I. No. 289 of 2013, apply to the carriage of dangerous goods by road in tanks, bulk and packages, including the related packing, loading, filling and unloading of the dangerous goods. The 2011 and 2013 regulations give effect to the 2013 European Agreement Concerning the International
Carriage of Dangerous Goods by Road (ADR). There are some exemptions for asbestos. See HSA information note:

http://www.hsa.ie/eng/Your_Industry/ADR_-_Carriage_of_Dangerous_Goods_by_Road/Information/Asbestos_by_road.pdf

The Transfrontier shipment of asbestos waste is also subject to control procedures under EU and national legislation, Waste Management (Shipments of Waste) Regulations, 2007. Further details on the rules applicable to the transport of hazardous waste such as asbestos can be found here: http://www.dublincity.ie/WaterWasteEnvironment/Waste/National_TFS_Office/Documents/FAQSWTF2011.pdf

ACCIDENTS

The Health and Safety Authority (HSA) was established in 1989 under the Safety, Health and Welfare at Work Act, 1989 and reports to the Minister for Jobs, Enterprise and Innovation.
The Mission of the Authority is to protect people from death, injury and ill-health arising from all work activities and chemicals.
The Authority has a number of major roles. These are:

- The national statutory body with responsibility for ensuring that approximately 1.8 million workers (employed and self-employed) and those affected by work activity are protected from work related injury and ill-health. This is effected by enforcing occupational health and safety law, promoting accident prevention, and providing information and advice across all sectors, including retail, healthcare, manufacturing, fishing, entertainment, mining, construction, agriculture and food services.

- The lead National Competent Authority for a number of chemicals regulations including the EU REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation and the Seveso II Directive. The responsibility in this area is to protect human health (general public, consumers and workers) and the environment, to enhance competitiveness and innovation and ensure free movement of chemicals in the EU market.
- A key agency involved in market surveillance and ensuring the safety of products used in workplaces and consumer applications. The Authority has a remit to protect 4.5 million citizens from unsafe products and articles and to enable the international movement and trade of goods manufactured in Ireland. In this regard it has a role in respect of EU Directives or Regulations relating to personal protective equipment, machinery, transportable pressure equipment and lifts, gas appliances, REACH, classification, labelling and packaging, and detergents
- Together with the roles outlined above, the Authority has responsibilities in the areas of transport of dangerous goods by road, control of major accident hazards, chemical weapons, and offshore installations.

The Authority works with key duty holders to ensure that they meet their legal obligations in relation to workplace health and safety and chemicals. It motivates and informs through providing a combination of promotion, information, inspection and enforcement.
The Authority's Strategic Priorities are to:
1. Enable enterprises to comply with their legal obligations in a practical and reasonable manner.
2. Achieve a high standard of compliance with safety, health and welfare and chemical laws.
3. Support the Minister in the development of a well-functioning, robust and proportionate regulatory framework.
4. Engage and work with people and organisations nationally and internationally to achieve our vision.
5. Be a high performing organisation delivering value to the Irish taxpayer.

There are a wide range of activities that fall under the remit of the Authority, including:
- Promotion of good standards of health and safety at work;
- Inspection of all places of work and monitoring of compliance with health and safety laws;
- Investigation of serious accidents, causes of ill health and complaints;
- Undertaking and sponsoring research on health and safety at work;
- Developing and publishing codes of practice, guidance and information documents;
- Providing an information service during office hours;
- Developing new laws and standards on health and safety at work.

The Health and Safety Authority has overall responsibility for the administration and enforcement of health and safety at work in Ireland. It monitors compliance with legislation at the workplace and can take enforcement action (up to and including prosecutions). In this regard, the Authority has a very broad mandate as set out in over two hundred Acts, Regulations and international conventions. A significant portion of these Acts and Regulations were initiated as a result of transposing European Directives. A full list of legislation administered and enforced, in whole or part, by the Health and Safety Authority is available at http://www.hsa.ie/eng/Legislation/List_of_Legislation/january_2014.pdf

The HSA is the national centre for information and advice to employers, employees and self-employed on all aspects of workplace health and safety. It also promotes education, training and research in the field of health and safety. It consults widely with employers, employees and their respective organisations, and it works with various advisory committees and task forces focusing on specific occupations or hazards, to help develop sound policies and good workplace practices.

The Authority employs inspectors, professional specialists, administrators and clerical staff, and staff numbers at the end of 2013 were approximately 162. In 2013, expenditure for the Authority was approximately €23 million.

A Programme of Work is published by the Authority each year, in which the efforts required to achieve its strategic priorities are outlined. Progress in the delivery of the programme of work and strategy and, in particular, progress in delivering on key performance indicators, is monitored regularly by the Board of the Authority and the Executive Team and updates are reported to the Minister.

Overview of Workplace Injury, Illness and Fatality Statistics in Ireland for 2012 -2013

The latest published statistics are available for the years 2012-2013 and are outlined below:

Non-fatal injury
There were 6,598 non-fatal injuries reported to the Health and Safety Authority in 2013. Of these injuries 6,394 (97%) involved workers, while the 202 involved members of the public, including family members. There was insufficient information in the other two cases to enable categorisation. There was a small decrease in the number of injuries reported to the Authority in 2013 compared to 2012. While the number of people in employment increased in 2013, the rate of reported injuries as a proportion of those in employment declined marginally, from 3.6 per 1,000 employed to 3.4 per 1,000 employed.

The Health and Social Work sector submitted 22% of the non-fatal injury reports to the HSA and the manufacturing sector accounted for 16% of reports.

The estimates based on the Central Statistics Office (CSO) survey module on work related accidents and illnesses suggest that 17,786 people experienced work injuries requiring an absence from work of four or more days in 2012, an increase from the 16,843 reported in 2011. Expressed as a rate of those employed, there was an increase in such injuries from 9.1 to 9.6 per 1,000 workers between 2011 and 2012. However some of this difference may be due to changes in the questionnaire, and it remains to be seen whether this is the start of an underlying upward trend.

The highest rates of injury causing four or more days absence from work (i.e. 4+ days) in 2012 occurred in Construction, the Health and Social Work sector, and the Agricultural sector, with rates of 16.7, 15.9, and 14.2 per 1,000 workers respectively. Including less serious accidents (0+ days absence) the injury rates were highest in Agriculture and Health (both 29 per 1,000) and Accommodation and Food sector and Transport and Storage sector (27 per 1,000).

Consistent with previous years, female workers had lower injury rates than male workers in 2012. The time series data suggest that male injury rates have declined more steeply than female injury rates. For all injuries (0+ days absence) the male injury rate fell from 38 per 1,000 in 2007 to 23 per 1,000 in 2012. For women the rate fell from 19 per 1,000 to 15 per 1,000 during the same time period.

Non-Irish national workers comprised 14.6% of the Irish workforce in 2013 and 16% of nonfatal injuries notified to the Health and Safety Authority in 2012 involved non-Irish national workers. Manual handling related injuries continue to account for about one third of all non-fatal injuries reported to the Authority. Slip, trip and fall incidents were the second most common accident trigger (18%). Incidents involving aggression, fright, shock or violence accounted for 5% of the non-fatal injury reports to the HSA, such events were most common in the Health sector where they accounted for 15% of reported incidents.

Work Related Illness
The rate of illness causing four or more (4+) days absence from work has increased from 10.6 cases per 1,000 workers in 2011 to 14.8 in 2012. This was the fourth year in a row in which an increase in the illness rate was recorded. A study underway as part of the Health and Safety Authority/Economic and Social Research Institute (ESRI) research programme, will investigate the factors underlying

these trends.

The three sectors with the highest illness rates in 2012 (0+ days lost) were Agriculture, Forestry and Fishing (47 per 1,000 workers), Information/Communication (41 per 1,000 workers) and Education (37 per 1,000 workers). Two of these differ from the three sectors with the highest illness rates in 2011, which were- Agriculture, Public Administration and Defence and Administration and Support Services. Women experienced a higher illness rate than men in 2012, 29 per 1,000 workers compared to 25 per 1,000 workers. This continues a pattern which emerged in 2011. Illness rates were also somewhat higher among older workers. The rate was 29 per 1,000 workers for those aged 55 to 64 compared to a rate of 25 per 1,000 workers for those aged 25 to 34 years.

Fatal injuries
There were 47 work-related fatalities reported to the Health and Safety Authority in 2013, compared to 48 fatalities in 2012 and 54 in 2011. Of these fatalities, 40 involved workers, giving a worker fatality rate of 2.1 workers per 100,000. This was lower than the 2012 rate (2.3) and the 2011 rate (2.6). The three-year rolling fatality rate has remained relatively stable since 2009 following a downward trend between 2006 and 2009.

The highest number of fatalities occurred in the Agriculture, Forestry and Fishing sector with 17 worker deaths recorded in 2013 with an additional 4 deaths of non-workers. This compares to 28 fatalities in the Agriculture, Fishing and Forestry sector in 2012. The fatality
rate for workers in this sector for 2013 was 15.9 per 100,000 workers. This is considerably lower than the rate of 29.1 per 100,000 workers in 2012, 30.2 in 2011 and 30.5 in 2010. One reason behind this fall in the fatality rate is the significant rise in the number employed in the agricultural sector during 2013, this has the effect of increasing the denominator. The CSO caution that this increase in the agricultural employment figures is uncertain and may be due to changes in the survey sample introduced post the 2011 Census (CSO, 2013). There were 11 fatalities in the Construction sector during 2013, one of which involved a non-worker. This translates into a fatality rate of 9.8 per 100,000 workers up from a rate of 6.9 recorded in 2012.

Similar to previous years, 22 of the fatalities in 2013 involved self-employed persons, including 15 farmers. The 65+ age group accounted for 8 of the fatalities (17%). Non-Irish nationals accounted for 20% of worker fatalities in 2013 (8 fatalities). The fatality rate for non-Irish national workers was 2.9 per 100,000 compared to the rate for Irish workers of 2.0 per 100,000 workers.

The latest European statistics on fatality rates refer to the year 2012. These figures, compiled by Eurostat, report a fatality rate of 2.7 per 100,000 workers for Ireland. This is the fifth highest rate among the EU15 and is higher than the un-weighted average for the EU15 of 2 per 100,000 workers.

Further Information
More detailed analysis and background to these statistics is contained in a full report published by the Health and Safety Authority, and available at:
http://www.hsa.ie/eng/Publications_and_Forms/Publications/Corporate/Stats_Report_2013_2012.pdf

EMERGENCY PLANNING

Emergency Planning in Ireland is structured around the “Lead Government Department” principle. There are currently 41 emergency types, each with a Lead Government Department (LGD). The Government Department that is responsible for an activity in normal conditions retains that responsibility during a major emergency. When an emergency occurs it is the responsibility of the relevant lead Government Department to chair the National Co-ordination Group (NCG) which deals with the rele-

vant emergency.

The Department of Health is currently the LGD for two emergency types:
- Pandemic influenza & other public health emergencies
- Biological incidents (where incident is primarily a public health incident)

Infectious diseases falls under the emergency type - pandemic influenza and other public health emergencies which the Department of Health would be responsible for calling and chairing a meeting of the National Co-ordination Group should this be necessary to coordinate a 'whole of Government' response to issues arising from a health emergency relating to infectious diseases. The meeting would normally be chaired by the Minister and would include representatives from Government departments and state agencies.

Ireland is implementing EU Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC. This was agreed under the Irish Presidency, published in the Official Journal of the EU on 5 November 2013 and came into force the following day (6 November 2013).

The Decision provides a coherent framework for tackling all serious cross-border public health threats by:
- strengthening preparedness planning capacity at EU level by reinforcing co-ordination and sharing best practice and information on national preparedness activities;
- expanding the scope of the existing EU Early Warning and Response System to all serious threats to health;
- improving risk assessment for serious cross border threats that are not caused by communicable diseases but which are caused by threats of biological, chemical and environmental origin; and
- ensuring more effective coordination of national crisis responses in the event of a public health emergency.

It addresses 3 main areas: preparedness and response planning; risk monitoring and assessment; risk management and crisis communication. The Decision also includes provision for the Joint Procurement of medical countermeasures by EU member states.

The Network for the Surveillance and Control of Communicable Diseases was established by the European Parliament and Council Decision 2119/98/EC. The aim of the Network is to promote cooperation and coordination between the Member States, with the assistance of the European Commission, with a view to improving the prevention and control of communicable diseases in the Community. The Network includes an Early Warning and Response System (EWRS), which is formed by bringing into permanent communication with one another, through appropriate means, the Commission and the competent public health authorities in each Member State responsible for determining the measures which may be required to protect public health. Ireland is a participant in the EWRS.

Policy on Prevention of Smoking

Government policy on smoking is for Ireland to be tobacco free by 2025. This policy aims to reduce and eventually eliminate tobacco-related harm in the population, including preventable deaths, disability and ill health caused by tobacco use. A more detailed analysis of current government policy on tobacco is provided below under the heading tobacco policy.

Tobacco Policy

Tobacco Free Ireland
Smoking is the greatest single cause of preventable illness and premature death in Ireland. Smoking

is the leading preventable cause of lung cancer, as well as contributing to ischaemic heart disease, stroke and chronic obstructive pulmonary disease. Each year at least 5,200 people in Ireland die from diseases caused by tobacco .

Tobacco Free Ireland, the report of the Tobacco Policy Review Group, was launched in October 2013. It builds on existing tobacco control policies and legislation already in place, and sets a target for Ireland to be tobacco free by 2025. In practice, this will mean a smoking prevalence rate of less than five percent. The two key themes underpinning the Tobacco Free Ireland are protecting children and the denormalisation of smoking. Tobacco Free Ireland addresses a range of tobacco control issues and initiatives and contains over 60 recommendations. Tobacco Free Ireland is the first policy document to be published under the Healthy Ireland framework.

Under the auspices of the Tobacco Free Ireland policy, Ireland is working on a range of legislative measures, the aim of which is to further reduce the numbers of people, young and old, smoking in Ireland. These include:

- Public Health (Standardised Packaging of Tobacco) Bill 2014
- Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2014
- Legislation for the introduction of a licensing system and other measures in relation to the sale of tobacco products and non-medicinal nicotine delivery systems (including e-cigarettes).

Smoking Prevalence in Ireland

The cumulative effect of Ireland's tobacco control legislation to date has been a decrease in the number of people smoking. In 2013, the National Tobacco Control Office reported that 21.5% of Irish adults smoked (22.9% men and 20.2% women). This represents a decline of 2.2% since 2010, and a decline of 7.5% since 2007 when the last comprehensive large scale study on smoking prevalence in Ireland was undertaken (SLAN study) . Smoking rates are highest among young adults (18-34 years) reaching 27% in the 25-34 years age group.

The Irish Health Behaviour in School-aged Children Survey (2010) found that 27% of children reported that they had ever smoked tobacco - a 9% decrease from the 2006 Survey. In the survey, 12% of children aged 10-17 reported that they were current smokers, a reduction of 9.2% since 1998.

An EU Commission Report published in 2012 (DG SANCO 2008/C6/046) estimated the cost to the Irish Exchequer of smoking attributable diseases, including an estimate of the costs of absenteeism and incapacity, as €664m in 2009.

Tobacco Control Legislation

Tobacco control experts in Ireland and internationally recognise that no one element in isolation can be effective in reducing tobacco consumption and moving towards a tobacco free society. The aim of tobacco control legislation already in place in Ireland, including the Public Health (Tobacco) Acts 2002 and 2004, is to protect people from the dangers of tobacco consumption and from second hand smoke.

Tobacco control measures already in place in Ireland include:

- A ban on sale of tobacco products to individuals under 18 years of age (2001)
- Work-place smoking ban (2004)
- A ban on packets containing less than 20 cigarettes (2007)
- A ban on the sale of confectionaries that resemble cigarettes (2007)
- A ban on the point of sale display and advertising of tobacco products (2009)
- A requirement for all tobacco products to be stored within a closed container which can only be accessed by the retailer (2009)
- A requirement for all retailers who wish to sell tobacco products to register with the National

Tobacco Control Office (2009)

- A prohibition on self-service vending machines except in licensed premises or in registered clubs (2009)
- Combined text and photo warnings (graphic warnings) (2013)
- Social marketing and media campaigns, establishment of a National Smokers Quitline, social media and online cessation supports (on-going)
- Development of smoking cessation services (on-going)
- Nicotine Replacement Therapy available free to all medical card holders
- Increased excise duty on tobacco products (on-going)

Tobacco Pricing

In Budgets 2012, 2013 and 2014 the excise duty on tobacco products was increased by 25 cent, 10 cent and 10 cent respectively. Cigarette pricing controls in Ireland are part of a long-running and ambitious effort to decrease smoking prevalence. Evidence shows that pricing is a key tool in the efforts to control smoking and in particular preventing children and adolescents from taking up the habit. Cigarette prices in Ireland remain among the highest in the world (WHO MPOWER Report on the Global Tobacco Epidemic, 2011).

Policy on Prevention of Alcoholism

1) For States that have accepted neither paragraph 1 nor paragraph 2, please describe the general public health policy and legal framework. Please specify the nature of, reasons for and extent of any reforms.

Public Health (Alcohol) Bill

Alcohol related harm is a major public health concern. Alcohol is causing significant damage – to the individual drinker, the general population, the workplace and children in families.

Last October (2013), the Irish Government approved an extensive package of measures to deal with alcohol misuse, including the drafting of a Public Health (Alcohol) Bill. These measures were agreed on foot of the recommendations in the Steering Group Report on a National Substance Misuse Strategy. The recommendations in the Strategy are grouped under the five pillars of Supply Reduction (availability), Prevention, Treatment, Rehabilitation and Research.

The aim is to reduce alcohol consumption to the OECD average by 2020 (i.e. 9.1 litres of pure alcohol per capita) and to reduce the harms caused by the misuse of alcohol. In 2011 the average per-capita pure alcohol consumption for everyone over the age of 15 was 11.63 litres in Ireland.

The package of measures to be implemented will include provision for:

- minimum unit pricing for alcohol products;
- the regulation of advertising and marketing of alcohol;
- structural separation of alcohol from other products in mixed trading outlets;
- health labelling of alcohol products; and
- regulation of sports sponsorship.

Other Measures Agreed by Government

Public health messaging relating to alcohol will be based on grams of alcohol and weekly low-risk drinking guidelines should be 168 grams (17 standard drinks) and 112 grams (11 standard drinks) for men and women respectively.

The other measures (eg for the Health Service Executive (HSE), professional bodies etc) set out in the National Substance Misuse Strategy, were endorsed by Government and are to be progressed by the relevant departments and organisations.

Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the public health policy and the legal framework.

Work is continuing on the development of a framework for the necessary Department of Health legislation. It is hoped to publish a General Scheme of a Bill during the Autumn. The HSE has responsibility for implementing a number of recommendations in the National Substance Misuse Strategy and this is reflected in the HSE Service Plan for 2014. Letters have been issued to all Departments and Agencies identified as leads or participants requesting them to commence implementation of the recommendations.

A health impact assessment, in conjunction with Northern Ireland, was commissioned in 2013, as part of the process of developing a legislative basis for minimum unit pricing. The research studied the impact of different minimum prices on a range of areas such as health, crime and likely economic impact. The study should be finalised in the coming weeks.

Please supply any relevant statistics or other information on the percentage of smokers in the general population, trends in alcohol consumption and the rates of vaccination cover for infectious and epidemic diseases.

Trends in Alcohol Consumption
The Irish governments aim is to reduce alcohol consumption to the OECD average by 2020 (i.e. 9.1 litres of pure alcohol per capita) and to reduce the harms caused by the misuse of alcohol.

The average per-capita pure alcohol consumption for everyone over the age of 15 in Ireland was 11.63 litres in 2011, 11.60 litre in 2012 and 10.64 litres in 2013.

In 2013, the Health Research Board, on behalf of the Department of Health, conducted a survey which provides data personal consumption of, and expenditure on, alcohol among the population aged 18-75 years. Please see link to report attached.

http://www.hrb.ie/uploads/tx_hrbpublications/Alcohol_Consumption_in_Ireland_2013_web_version.pdf

Policy on Drug abuse prevention

Government policy in relation to drugs is set out in the National Drugs Strategy 2009-2016. The overall objective of the Strategy is to tackle the harm caused to individuals and society by the misuse of drugs.

Services for drug users in Ireland are provided within the framework of the National Drugs Strategy which takes a holistic approach to dealing with problem drug use through the five pillars of supply reduction, prevention, treatment, rehabilitation and research & information. The Strategy is coordinated by the Department of Health and outlines a series of 63 individual actions based on the five pillars. A partnership approach between statutory, voluntary and community sectors in addressing drug issues is an important dimension of the National Drug Strategy.

Periodic reviews of progress across the pillars of the Strategy are carried out through the Oversight Forum on Drugs, which is chaired by the Minister for Health, and these are posted on the Department's website.

Research carried out in 2010/2011 indicates that in Ireland 3% of the population aged 15-64 reported using illegal drugs in the month prior to the survey; 7% had used in the last year and 27% had used an

illegal drug during their lifetime. The 27% lifetime prevalence was an increase from the 24% found in 2006/2007. Last year and last month use was highest for those aged 15-24 years at 15% and 6% respectively. Cannabis continues to be the most commonly used illegal drug with 25% of the adult population having ever used the drug.

The actions in the National Drugs Strategy are progressed by a range of Government Departments and agencies. Actions in relation to treatment and some actions in relation to prevention fall within the remit of the Department of Health from a policy point of view and within the remit of the Health Service Executive (HSE) in relation to management and delivery of services. The strategic objectives of the HSE Addiction Service, in line with the National Drug Strategy, are to provide, in conjunction with voluntary agencies, where appropriate, local treatment programmes. The local treatment programmes are service user focused and have a short-term objective of controlling the drug misuser's addiction and a long-term aim of returning the drug misuser to a drug free lifestyle. A comprehensive range of treatment services are provided, including: substitution treatment; psychosocial therapies such as cognitive behaviour therapy (CBT) and coping skills; and harm reduction services such as needle and syringe exchange.

There are approximately 14,500 known opiate users in Ireland and at the end of 2013 there were over 9,600 persons receiving methadone substitution treatment in accordance with the Methadone Treatment Protocol (MTP). Increases in the number of General Practitioners and pharmacists participating in the MTP and increases in the number of clinics providing the services throughout the country in recent years has made this treatment available to people in their own local area. Drug users with more complex issues are treated in the consultant led specialist clinic in the National Drug Treatment Centre in Dublin and those who achieve stabilisation on methadone are usually then transferred to the more local services.

The Report of the Working Group on Drugs Rehabilitation sets out the framework for a multifaceted approach to the delivery of rehabilitation. The National Drug Rehabilitation Implementation Committee (NDRIC), chaired by the HSE, is overseeing the implementation of a National Drugs Rehabilitation Framework which is designed to assist services to plan and implement a range of different approaches to promote an integrated care pathway for former and current drug users. This framework is currently being rolled out nationally. More broadly, considerable advances are being made in the provision of drug treatment and rehabilitation. Opioid substitution treatment is more widely available and waiting lists are greatly reduced. More detoxification beds are available, as well as more places in rehabilitation programmes generally, with increasing focus on community-based detoxification. This work is being complemented by the refocusing of programmes to foster client progression (facilitated by individual care plans backed up by interagency working) and also greater provision of after-care to further assist clients as they move towards a drug free lifestyle where this is achievable.

In 2005 the Health Research Board was asked to establish a National Drug Related Deaths Index (NDRDI). This is jointly chaired by the Department of Health and the Department of Justice & Equality. The most recent report published in January 2014 details the number of deaths in the years 2004 to 2011 and is available on the HRB website (www.hrb.ie).
In Dublin robust needle exchange services are provided through HSE clinics and voluntary sector providers. Needle exchange services outside Dublin are being expanded through pharmacies and 129 pharmacies are currently providing such services. .

Primary Childhood Immunisation Schedule

Immunisation is regarded as one of the safest and most cost-effective of health care interventions. The importance of immunisation is acknowledged by all the major international health organisations, particularly the WHO.

Vaccines have had a major impact on the health of Irish children. Since the middle of the 20th century, serious disease such as smallpox, polio and diphtheria have become a thing of the past, while in recent decades, the burden of other vaccine preventable diseases such as pertussis, measles, meningococcal and Hib infections has been greatly reduced in Ireland.

The objective of the Primary Childhood Immunisation Schedule is to achieve a national uptake level of 95%, which is the rate required to provide population immunity and to protect children, and the population generally, from the potentially serious diseases concerned. Ireland's recommended immunisation programme is based on the guidelines of the National Immunisation Advisory Committee (NIAC).

National Immunisation Advisory Committee (NIAC)

The immunisation programme in Ireland is based on the advice of the National Immunisation Advisory Committee (NIAC), which was established by the Royal College of Physicians to advise the Minister and the Department, at the request of the Department. The advice of the Committee is informed by evidence based public health advice and international best practice.

Since its establishment in the late 1990's, NIAC has advised on significant changes to the childhood immunisation programme which have greatly improved the health of Irish children, including the introduction of Meningcoccal C (Men C) and Hib vaccines, both leading causes of meningitis in young people. Since the introduction of these vaccines, the incidence of meningitis caused by these bacteria has fallen dramatically.

NIAC guidance is published and distributed to all general practitioners and physicians involved in immunisation. The guide is designed to be simple and concise and does not claim to contain all information on any pharmacological material. It does, however, give current information and guidelines concerning immunisation as vaccines are continually evolving and the guidelines are updated regularly.

RESC 11§3 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 11§3 of the Charter on the grounds that it has not been established that:

- *that there are adequate measures protecting the population from the risks of asbestos;*
- *adequate measures have been taken to prevent smoking;*
- *efficient immunisation and epidemiological monitoring programmes are in place;*
- *there are adequate measures in force for the prevention of accidents.*

108. The representative of the Republic of Republic of Moldova provided the following information in writing:

Amiante

A la demande du Gouvernement de la République de Moldova concernant la création du groupe de travail en vue d'élaborer un Programme d'action ayant comme but la limitation et l'élimination des matériels de construction contenant des fibres d'amiante, une étude des risques pour la population conditionnes par l'utilisation des matériels contenant l'amiante a été effectuée et l'on a constaté ce qui suit.

A présent dans la République de Moldova il n'existe pas d'entreprise qui produiraient des matériels de construction contenant l'amiante. En même temps 2045 sites industriels construits avec l'utilisation des matériels contenant les fibres d'amiante sont exploités dans le pays employant environ 42 mille de personnes.

En Moldova environ 1,5 mln d'habitants, ce qui constitue 55-57% de la population totale du pays peuvent être exposés à l'action des fibres de l'amiante. Le poids des logements construits avec l'utilisation des matériels contenant l'amiante varie de 50% à 98,1%. En total le poids des institutions pour les enfants construits avec l'utilisation des fibres d'amiante constitue 75,2%, ou 339251 enfants peuvent être exposés à l'action de ce facteur.

Actuellement en vue d'assurer la santé et la sécurité des salaries lors du travail avec les matériels contenant l'amiante (utilisation contrôlée) ont été élaborés et approuvés par la Décision du Gouvernement n244 du 08.04.2013 "Exigences minimales pour la protection des travailleurs contre les risques liés à l'exposition à l'amiante au travail". En vue d'exécuter cette Décision le Ministère de la santé a émis l'ordre n1334 du 22.11.2013 contenant un plan d'action.

L'asbestose apparait comme conséquence de l'exposition des organes respiratoires aux lourdes charges de poussière contenant des fibres d'amiante, ou petites charges au cours de 25-30 ans. La morbidité par tumeurs malignes en Moldova a une tendance de croissance de 179,2 en 1990 à 234,8 en 2013 (par 100 mille habitants) oncologiques le cancer pulmonaire occupe la deuxième place. Conformément aux données statistiques on estime, qu'annuellement on identifie environ 700 cas nouveaux de cancer pulmonaire. La morbidité par mesoteliom n'a pas été enregistrée dans le pays.

Tabagisme

La consommation nocive de tabac est l'une des causes qui provoque et aggrave la pathologie des voies respiratoires et des poumons, ainsi que du système cardio-vasculaire, contribuant de cette façon à l'accroissement du taux de mortalité causée par cette maladie. Ce fait a imposé l'élaboration et l'application d'une série de mesures au niveau du Gouvernement sur la réduction de l'utilisation des produits de tabac.

Plusieures activités de contrôle du tabac sont mises en œuvre dans la République de Moldova, dictées tant des obligations du pays en rapport avec la Convention cadre de Contrôle du Tabac de l'OMS, que du taux important de la prévalence du tabagisme parmi les différentes catégories de population. En conformité avec les prévisions du Programme national sur le contrôle du tabac pour les années 2012-2016, approuvé par la Décision du Gouvernement n100 du 16 février 2012, on est en train de créer le Système national de surveillance et de contrôle de la consommation du tabac et de ses conséquences pour la santé. En même temps on a créé le Conseil National Coordonateur sur le Contrôle du Tabac.

En vue de diminuer l'accessibilité des cigarettes leur vente est interdite à distance moins de 50 m des institutions pré-universitaires, on a augmenté de manière constante (environ de 3 fois) depuis 2011 les accises spécifiques pour les cigarettes. Il est également interdit la publicité des articles de tabac. Annuellement les impôts sur les produits de tabac augmentent en même temps le niveau d'imposition des cigarettes qui constitue 30% du cout en détail d'un paquet de cigarettes continue à augmenter, en tant que mesure de découragement du tabagisme.

Pour attirer l'attention de l'opinion publique sur les problèmes de la santé, socio-économiques et de comportement liés à la consommation du tabac, la veille de la Journée Mondiale sans Tabac - 31 mai 2013, on a lancé la Campagne nationale de communication contre le tabagisme. Avec le support de l'Organisation Mondiale de la Santé, on a effectué des activités d'informationnelles, éducationnelles s'axant sur les utilisateurs actuels et potentiels de tabac.

Pour assurer la durabilité des actions de contrôle du tabac la République de Moldova entreprend des efforts soutenus pour une collaboration intersectorielle responsable et l'implication de la société dans

la création d'une opinion négative par rapport à ce phénomène et l'identification des ressources financières pour la mise en œuvre du Programme national de Contrôle du Tabac.
La République de Moldova a soutenu l'adoption du Protocole sur l'élimination du commerce illégal des articles de tabac COP - 5 en 2012, actuellement on a initi2 la procédure de ratification de ce Protocole.

Le 21 novembre on a organis2 la Journée nationale anti-tabagisme. En coopération avec le Ministère de l'Education le Ministère de la Santé a organisé un cours spécial pour les élèves des classes VI-VIII concernant la prévention du tabagisme.

Au cours de 2013 on a réalisé la Campagne nationale de communication axée sur les utilisateurs actuels et potentiels du tabac. En vue de surveiller le respect des prévisions de la législation dans le domaine du contrôle du tabac on effectue l'expertise sanitaire de 18 dossiers avec des matériels présentés par les fabriquants et les importateurs concernant le contenu des substances nocives spécifiées, de données toxicologiques relatives aux ingrédients utilises, etc., et effectue l'expertise de 52 dossiers présentés pour avis sanitaire, 14 lettres d'intention à l'adresse des operateurs de tabac sur la nécessité de présenter des rapports en conformité avec les prévisions de la législation en vigueur et l'élimination des violations admises, etc.
On a également effectué l'Etude Globale sur la Prévalence du Tabagisme aux Adolescents et des travailleurs concernant les politiques dans le domaine de prévention du tabagisme dans les institutions pré-universitaires de la République de Moldova, etc.

Vaccination et surveillance épidémiologique.

Pour ce qui est la prévention des maladies immuno-dirigeables la République de Moldova était toujours un promoteur actif et conséquent dans la mise en œuvre de la vaccination et de l'immunisation de la population contre les maladies transmissibles. Aux cours des années 1994-2010 3 Programmes nationaux d'Immunisation ont été réalisés avec succès, ou l'ont implémenté des nouvelles vaccins contre la hépatite B (1994), la rubéole (2002), infection avec *Haemophilus influenzae type b* (2009). La réalisation avec succès des 3 Programmes nationaux d'Immunisation a permis d'assurer le bon contrôle de la poliomyélite, diphtérie, tétanos, toux convulsive, hépatite virale B, rougeole, oreillon, rubéole, tuberculose de l'enfant.
Pour les années 2011-2015 par sa Décision n 1192 du 23.12.2010 le Gouvernement a approuvé et réalisé déjà le IV Programme National d'Immunisation (PNI), selon lequel la population bénéficie d'immunisation gratuite contre 12 maladies transmissibles: tuberculose, hépatite virale B, poliomyélite, diphtérie, tétanos, toux convulsive, infection avec *Haemophilus influenzae type b*, rougeole, oreillon, rubéole, infection avec rota virus (mis en œuvre depuis 2012), infection avec pneumocoques (mis en œuvre depuis 2013). A part cela certains catégories de risque important sont immunises contre la grippe, et comme service payant dans le secteur prive les personnes peuvent être vaccinées contre la hépatite A, varicelle papillomavirus humain.

La vaccination réalisée a permis d'établir un contrôle efficient des maladies transmissibles prévenibles par vaccination, y compris l'élimination des causes indigènes, ainsi que la réduction et le maintien de la morbidité à un niveau bas.

Accidents
En conformité avec le plan de mesures sur le développement officiel de la Semaine Mondiale de la Sécurité Routière dans le cadre du Décennie des actions dans le domaine de la sécurité routière 2010-2020, pour redresser la situation dans le domaine du trafic routier et l'assurance de la sécurité pietonale, le Ministère de la Santé en coopération avec l'OMS a organisé le 15.05.2013 le Dialogue

pour les politiques dans le domaine de la sécurité routière et en période 15-16 mai 2013 un Atelier de travail pour la prévention de la Violence et du traumatisme.

Tous les ans on organise la formation du personnel du Service d'Assistance Médicale Urgente, en plus on a formé 18 hôtesses de l'air, 24 pompiers et 16 policiers. Le programme de formation des médecins d'urgence comprend des programmes obligatoires visant le Support Avance en Traumatismes. Par l'intermédiaire du projet REPEMOL on a formé 4 équipes spécialisées en réanimation des enfants pour l'assistance médicale d'urgence aux enfants, y compris suite aux accidents de circulation.

En cas des accidents routiers les activités ont été étendues pour les groupes-cible des enfants de 0-18 ans et plus. La Décision du Gouvernement n 494 du 08 juillet 2013 a modifié le Règlement de la circulation routière établissant l'obligation d'utiliser le dispositif spécial de fixation pour les enfants sous l'âge de 12 ans, correspondant à la masse et taille de l'enfant. En même temps on a exclu l'alternative de tenir sur genoux d'un enfant sous l'âge de 7 ans.

Des émissions TV ont été diffusées pour informer les familles sur les risques d'accidents des enfants dans des conditions de domicile et pour donner des conseils utiles sur la diminution de ces risques.

Au cours de l'année 2013 le Programme de Formation du Personnel sans formation médicale sur le Premier Aide, qui a été élaboré en conformité avec les recommandation du Conseil Européen de Réanimation ayant comme but l'instruction, la formation et l'amélioration du niveau professionnel sans études médicales lors d'octroi du premier aide aux malades et aux victimes.

En vue de prévenir la violence et réglementer les actions d'identification, documentation et intervention dans les cas d'abus par rapport aux enfants dans le système éducationnel, le Ministère de la Santé a adopté par l'Ordre n77 du 22 février 2013 la Procédure d'organisation institutionnelle et d'intervention des travailleurs des institutions d'enseignement en cas d'abus et négligence des enfants.

Dans le cadre du projet moldo-suisse „Régionalisation des services pédiatriques d'urgence et thérapie intensive de la République de Moldova" (REPEMOL), la Phase II de la Campagne Nationale de communication „Une maison sans danger pour ton enfant***!"*** (2011 - 2013).

ARTICLE 12 – RIGHT TO SOCIAL SECURITY
Article 12§1 - Existence of a social security system

RESC 12§1 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 12§1 of the Charter on the grounds that it has not been established that:

- *personal coverage of medical care is insufficient;*
- *the minimum level of old age benefit is inadequate.*

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

109. The representative of Armenia provided the following information in writing:

Beside the services provided to the socially vulnerable and special groups of population, all citizens of the Republic of Armenia are entitled to the following services in free of charge or privileged basis:
1. For all groups of population the following types and services of the medical care and service in hospital:

1) revival measures,
2) unti-tubercular medical assistance services,
3) medical assistance services for psychic and drug diseases,

4) medical assistance services for intestinal and other infections,
5) medical assistance services for prenatal and obstetrics pregnants,
6) hemodialysis services in scope of established measures of the Ministry of Health,
7) Ambulance services,

2. The persons who are not included among the list of socially vulnerable and special groups of population, the medical assistance and services in privileged conditions are provided by the following types and services of medical assistance defined by the Minister of health:

1) urgent medical assistance services,
2) medical assistance services for diseases which are transferred via sexual relations,
3) medical assistance services for oncology and hematology diseases,
4) medical assistance services for gynecological diseases,

3. According to 27 December 2012 Decree N1691 of RA government in the scope of guaranteed health care package the free medical assistance is also provided to the employees and the persons who are entitled to health care package in public bodies of RA as well as in educational, cultural, scientific and social security sphere state organizations.

Meantime, among the children of 0-18 age (children with chronic dispensary diseases, children of 14-15 age, masculines of pre-military age) the category of those who haz the privilege to get free medical assistance does not always depend on their social status. Besides among the age group of 0-18 the co-payment is not required as well, therefore for children who has necessity for getting un urgent or oncological assistance the medical assistance is also provided free of charge regardless the size of the familie`s income.

Second ground of non-conformity

110. The representative of Armenia stated that some changes had taken place, namely that a new Government National Action Plan had been approved, and one of the priorities of the latter was to bring the state benefits system into compliance with the requirements of ratified international treaties so as to ensure that primary incomes of the population were increased. A new calculation method of pensions had been introduced, as a result of which lower pensions were increasing. As from 1 January 2014, the level of the basic pension had increased 33%, and the family benefit by 18.5%.

111. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

RESC 12§1 BOSNIA AND HERZEGOVINA

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 12§1 of the Charter on the ground that the duration of unemployment benefit is too short.

112. The representative of Bosnia and Herzegovina provided the following information in writing:

BIH
In 2013 the European Committee of Social Rights adopted a conclusion that the duration of unemployment benefit was too short in Bosnia and Herzegovina (hereinafter: BiH) and that it was not in line with Article 12, paragraph 1 of the European Social Charter.
We have to emphasize that the causes of non-compliance with the article are the difficult economic situation that has affected BiH as it has affected many Member States of the Council of Europe. The

difficult economic situation has led to a large increase in unemployment, the economic downturn, a lack of foreign investment, an increase in the informal economy.
In particular, we point out that the unemployment rate in BiH is on a steady rise and now stands at 546,739 (as of 30 April 2014) and a sharp rise in unemployment is expected due to the devastating floods that hit in BiH in May and due to the total destruction of a vast number of commercial and agricultural entities.
In such a situation it is very difficult to expect that the governments of Entities and Brcko District of BiH extend the duration of unemployment benefits according to the Law on Mediation in Employment and Social Security. The governments at all levels will continue to take all appropriate measures to extend the duration of unemployment benefits and the amount of compensation paid to the unemployed, as soon as the necessary conditions for it have been met.
It is evident also that the amount of unemployment benefits increases as the amount of the average salary paid in BiH increases, which is regularly determined by the Statistics Agency of BiH.

FEDERATION OF BIH

The Law on Amendments to the Law on Mediation in Employment and Social Security of Unemployed Persons of FBiH is being drafted, including the provisions governing the issue of unemployment benefit (level and duration of payment).
The amount of unemployment benefits should be aligned with the amount of contributions paid on the salary of employees whose purpose is to ensure financial and social security of employees in the event of their temporarily unemployment. Accordingly, amendments to the Law on Mediation and Employment and Social Security of Unemployed Persons were aimed at providing a fairer and more efficient unemployment benefit, which would be tied to the cumulative individual contributions and net earnings of an unemployed person, but not to a certain percentage of the average wage in the Federation of BiH (hereinafter: FBiH).
In fact, as noted in the Third Report of BiH on the application of the European Social Charter, Article 30 of the Law Mediation in Employment and Social Security of Persons ("Official Gazette of BiH" 55/00, 41/01, 22/05, 9/08) provides that an unemployment benefit amounts to 40% of the average net salary paid in the FBiH in the last three months before the termination of employment of the unemployed person, which is published by the FBiH Statistics Institute, and is paid 3-24 months depending on the period of employment.
Using the above-described method the amount of unemployment benefit is determined on the basis of the average wage in the Federation, which is a unique manner of determining the right to all unemployed persons in the Federation.
The duration of unemployment benefit of three months is motivation for the unemployed, which should have a more active approach to seeking employment.
In addition, in accordance with Article 30, paragraph 3 of the Law, when an unemployed person, who was paid the full benefit, regains the right to unemployment benefit, the unemployment benefit will be counted only for the time spent at work after the payment of the full benefit, according to Article 29 of the Law.
Also, paragraph 4 of the same Article provides that an unemployed person who is entitled to unemployment benefit and gets a job before the expiry of the full benefit and again becomes unemployed will resume receiving benefits for the remaining period of time, if it is advantageous for him/her, except when he/she knowingly contributed to the termination of employment or when he/she is found to have voluntarily left employment without good cause.
As noted above, the Law on Mediation and Employment and Social Security Unemployed Persons provides for a uniformly calculated amount of unemployment benefit, so in that sense there is no minimum benefit, but the length of benefits varies, depending on the time spent at work.
Article 49, paragraph 2 of the above-mentioned Law provides that if the cantonal department determines that the funds at its disposal are insufficient to achieve financial and social security for the unemployed, the employment service shall submit an application to the Federation Employment Service for a grant in the amount of lacking funds, submitting a monthly report.
The Federation Employment Service consolidates all requests for grants and, with the approval of the Federation Ministry of Labour and Social Policy, provides funds to the requesting employment ser-

vices with a view to achieving balanced financial and social security of the unemployed.

The Law on Mediation in Employment and Social Security of Unemployed Persons does not determine a period in which the unemployed person has the right to refuse a job or a training offer that does not match his/her previous skills without losing unemployment benefit.

REPUBLIKA SRPSKA

Following the submission of the Third Report of Bosnia and Herzegovina on European Social Charter (revised), there was an amendment to Article 47 of the Law on Mediation in Employment and Rights during Unemployment regulating the level of unemployment benefits, which has raised the base for the benefit in both cases (length of pensionable years under 15 and over 15 years) by 5%, a minimum amount of unemployment benefit being raised from 20% to 30%.

The Law on Amendments to the Law on Mediation in Employment and Rights during Unemployment of Republika Srpska (hereinafter: RS) took effect on 13 November 2012 ("RS Official Gazette" 102/12).

According to the amendments, Article 47 determines amounts of unemployment benefit and reads:

(1) An unemployment benefit shall be

a) 40% of the average net salary paid to the unemployed person in the last three months of his/her employment, if he/she has up to 15 years of pensionable service;

b) 45% of the average net salary paid to the unemployed person in the last three months of his/her employment, if he/she has more than 15 years of pensionable service.

(2) The amounts of unemployment benefit cannot be lower than 30% or higher than one average net salary paid in the RS in the last year according to the RS Statistics Institute data published in „Official Gazette of RS".

(3) The unemployment benefit is paid on a monthly basis.

This amendment allowed a more adequate compensation for unemployment, which is evident from the amount of funds paid for unemployment benefits in 2013.

Tabular overview of beneficiaries receiving unemployment benefit in RS 2011-2013

2011		2012		2013	
Number of beneficiaries	Amount in BAM	Number of beneficiaries	Amount in BAM	Number of beneficiaries	Amount in BAM
15,544	13,621,728	14,496	14,299,985	16,934	22,520,5877

Source: RS Employment Service

The amendment to the law, which governs the payment of unemployment benefits, has led to a more favourable position of the beneficiaries of this kind of compensation because of an increase in the base for compensation.

BRČKO DISTRICT OF BiH

In the Brcko District of BiH (hereinafter: BD) there has been no changes in the unemployment benefit situation (duration and amount of compensation) from the BiH third report submitted.

The Law on Mediation in Employment and Rights during Unemployment of BD ("Official Gazette of BD" 33/04, 19/07, 25/08) regulates the employment and unemployment rights.

The duration of rights depends on the length of pensionable years of the unemployed. An unemployed person with five pensionable years is entitled to unemployment benefit and related rights for a period

of three months. An unemployed person with from 5 to 15 pensionable years is entitled to unemployment benefit and related rights for a period of six months, an unemployed person with from 15 to 25 pensionable years is entitled to unemployment benefit and related rights for a period of nine months and an unemployed person with over 25 pensionable years is entitled to unemployment benefit and related rights for a period of 12 months.
Article 36(1) of the Law on Employment determines the amount of unemployment benefit: "The amounts of unemployment benefit are:
1) 35% of the average net salary paid to the unemployed person in the last three months of his/her employment, if he/she has up to 10 years of pensionable service;
2) 40% of the average net salary paid to the unemployed person in the last three months of his/her employment, if he/she has more than 10 years of pensionable service. "
Paragraph (2) of the Article provides a limit in this regard and that is the provision that the amounts of unemployment benefit cannot be lower than 20% or higher than one average net salary paid in DB in the last year according to the Statistics office competent for DB.
The minimum unemployment benefit in the reporting period varies from month to month and it ranged from BAM 139.28 (net salary of BAM 696.40 in January 2008) to BAM 165.32 (net salary of BAM 826.61 in December 2011).

AVERAGE NET WAGES AND MINIMAL FINANCIAL COMPENSATION ON THE MONTH AND YEAR STATED IN CONVERTIBLE MARKS

MONTH	2008 Net salary -	unemployment benefit	2009 Net salary -	unemployment benefit	2010 Net salary -	unemployment benefit	2011 Net salary -	unemployment benefit
January	696.40	**139.28**	738.21	**147.64**	783.72	**156.74**	790.56	**158.11**
February	705.52	**141.10**	750.90	**150.18**	784.54	**156.90**	783.67	**156.73**
March	715.83	**143.16**	763.74	**152.74**	798.98	**159.79**	805.85	**161.17**
April	730.31	**146.06**	773.22	**154.64**	802.55	**160.51**	800.81	**160.16**
may	740.29	**148.05**	762.62	**152.52**	806.52	**161.30**	813.58	**162.71**
June	734.65	**146.93**	766.86	**153.37**	802.47	**160.49**	813.55	**162.71**
July	733.00	**146.00**	780.85	**156.17**	798.43	**159.68**	807.05	**161.41**
August	728.32	**145.66**	773.20	**154.64**	789.07	**157.81**	805.23	**161.04**
September	733.87	**146.77**	772.56	**154.51**	797.69	**159.53**	807.18	**161.43**
October	735.56	**147.11**	766.19	**153.23**	798.36	**159.67**	818.38	**163.67**
November	728.73	**145.74**	787.84	**157.56**	790.32	**158.06**	819.09	**163.81**
December	771.95	**154.39**	789.76	**157.95**	803.60	**160.72**	826.61	**165.32**

Source: Employment Institute

MINIMUM UNEMPLYMENT BENEFIT =20% OF AVERAGE NET WAGE

Payment of unemployment benefit will stop before its expiration in the following cases:
1. Employment
2. Setting up a company, shop or other form of self-employment alone or with another person;
3. Fulfilment of requirements for an old age pension, a survivor pension or disability pension;
4. Complete inability to work;
5. Service of prison sentence, security measure, protective or correctional measures for a period longer than three months;
6. Unjustified refusal of a job in the place of residence or at a distance of 50 kilometres from the place of residence that suits his/her qualifications and ability to work;
7. Unjustified refusal or wilful interruption of training;
8. Unjustified two failures in succession to report to the Employment Institute within the time limits established by the by-laws of the Institute;

9. Unjustified refusal to respond to the invitation of the Institute for information about job opportunities;
10. Failure to notify the Institute of the change in requirements or grounds for the acquisition, exercise of termination of the rights under Article 27 of this Law within eight days;
11. Becoming a full-time secondary school student or full-time university student;
12. Fining that the entitlement was acquired on the basis of false information or using forged documents;
13. Deregistering from the Institute's Register;
14. Competent authority's finding that the unemployed work for an employer without a contract of employment or the employer has not registered him/her with the health, pension and disability insurance funds, as well as in the event that the competent authority finds that the unemployed is self-employed not registered in accordance with the law;
15. Death.
Thus, an unemployed person will no longer be entitled to unemployment benefit if he/she "refuses, without a good reason, a job in the place of residence or at a distance of 50 kilometres from the place of residence that suits his/her qualifications and ability to work." The entitlement will not cease when he/she refuses a job that does not suit his qualifications and ability to work or a job that is more than 50 kilometres from their place of residence. The law does not provide for other terms.
In the event of unjustified refusal or wilful interruption of professional training the Law also provides that the unemployment benefit ceases.

RESC 12§1 BULGARIA

The Committee concludes that the situation in Bulgaria is not in conformity with Article 12§1 of the Charter on the grounds that it has not been established that:

- *the minimum level of pension benefit is manifestly inadequate;*
- *the minimum level of unemployment benefit is inadequate.*

First ground of non-conformity

113. The representative of Bulgaria stated that the minimum amount of the old age pension had increased as from 1 April 2013. This increase would lead to a rise of the minimum amount of contributory pensions, which were calculated on the basis of the latter.

114. The amount of the social old age pension had also been increased on the same date, which would entail increases in the amounts of other non-contributory pensions determined by the latter.

115. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

Second ground of non-conformity

116. The representative of Bulgaria stated that following a legal amendment of 1 January 2011, the maximum amount of the unemployment benefit had been removed. Thus, persons entitled to this benefit would receive its actual calculated amount, and the average amounts of unemployment benefits would as a result also increase.

117. There had been no changes however as regards the minimum level of the unemployment benefit, which was determined annually by the Public Social Insurance Budget Act.

118. The representative of Bulgaria also underlined that promoting active labour market measures, rather than passive measures, was the main objective of the policy pursued by the authorities.

119. The GC invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RESC 12§1 CYPRUS

The Committee concludes that the situation in Cyprus is not in conformity with Article 12§1 of the Charter on the grounds that it has not been established that:

- *the minimum level of unemployment benefit is manifestly inadequate;*
- *the minimum level of sickness benefit is manifestly inadequate;*
- *the minimum level of old age benefit is manifestly inadequate;*
- *the minimum level of maternity benefit is manifestly inadequate.*

First and third grounds of non-conformity

120. The representative of Cyprus stated that her Government did not agree with the methodology used to assess situations under this provision, namely that 50% of the median equivalised income was not an appropriate threshold for monitoring the adequacy of social insurance benefits. The absolute poverty threshold was deemed a more adequate indicator for such purposes.

121. The representative of the ETUC asked whether the amounts of the benefits mentioned in the ECSR's conclusion had increased. The representative of Cyprus replied that her country was following a Troika economic adjustment programme and that the level of benefits had not increased, that there was a standstill as regards the amounts of the benefits in question.
122. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 12§1 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 12§1 of the Charter on the grounds that it has not been established that:

- *the minimum levels of unemployment allowance and unemployment insurance benefit are manifestly inadequate;*
- *the minimum level of national pension is manifestly inadequate.*

First ground of non-conformity

123. The representative of Estonia mentioned that the minimum unemployment insurance benefit was being discussed by the authorities. As from 2013 the rate of this benefit was determined by the rate of the minimum wage of the previous year (1st July). Therefore, with the rise of the minimum wage the rate of the unemployment insurance benefit would also increase. The benefit could not be less than 35% of the minimum wage. In 2014 the daily rate of the unemployment benefit was €3.62 (€112 per month).

124. The Chair asked if the next report could clarify whether the minimum unemployment insurance benefit represented 35% or 50% of the minimum wage, as it seemed that contradictory information had been provided on this point.

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

Second ground of non-conformity

126. The representative of Estonia indicated that State pensions were indexed each year by 1st April. In 2014 the amount of the national pension had risen by 5.8% and currently stood at €148. According to the prognosis, it would rise by 6.1% in 2015 and 6.8% in 2016. The old age pension was higher than the national pension (a person who had received the average salary and had fulfilled the requirement of the minimum length of service received €209 per month).

127. In 2013 there were 6 414 recipients of a national pension, out of a total number of pension recipients of 407 106 persons, that is, the recipients of a national pension only represented 1.57% of all pensioners.

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

RESC 12§1 FINLAND

The Committee concludes that the situation in Finland is not in conformity with Article 12§1 of the Charter on the grounds that it has not been established that:

- *the minimum level of sickness benefit is manifestly inadequate.*
- *the minimum level of old-age benefit is inadequate.*

Second ground of non-conformity

129. The representative of Finland stated that the guarantee pension should be looked at in the context of the whole social protection system, given that the isolated examination of benefits could lead to inadequate results. She underlined that the ECSR was currently examining a collective complaint against Finland, in which the complainant association alleged that Finland had not maintained the social security at a satisfactory level, in violation of Article 12 of the Charter (Complaint No. 88/2012 Finnish Society of Social Rights v. Finland).

130. As regards the amounts of the guarantee pension, she mentioned they had increased and could be supplemented with a housing allowance, which often brought the total amount above €900 (poverty threshold). Moreover, there was new legislation on elderly persons which had very much improved the situation for this group in Finland.

131. The GC took note of the information provided and decided to await the outcome of the above-mentioned collective complaint

RESC 12§1 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 12§1 of the Charter on the grounds that:

- *the number of risks covered by the system of social security is inadequate;*
- *the minimum level of old age benefit is inadequate;*
- *the minimum level of maternity benefit is inadequate*

Second ground of non-conformity

132. The representative of Georgia stated that all social benefits had increased in 2013. The old age pension had increased by 50%, standing at GEL 150 on 1 September 2013. As regards the minimum subsistence level it stood at GEL 150 in 2013 (the same as the old age pension).

133. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

Frist and third grounds of non conformity

134. Additional information is to be provided in the next National Report.

RESC 12§1 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 12§1 of the Charter on the grounds that:

- *the minimum level of old-age benefit is manifestly inadequate;*
- *the minimum level of job-seeker's aid is manifestly inadequate.*

First ground of non-conformity

135. The representative of Hungary stated that the level of the minimum old age pension had been frozen in 2008 due to the global economic and financial crisis and the amount had not changed since then. However, the fact that other benefits were available should also be taken into consideration. According to income distribution data, less than one in five old age pensioners got benefits below the subsistence level, which was considered to be a favourable ratio.
136. The GC took note of the information provided and decided to await the next assessment of the ECSR.

Second ground of non-conformity

137. The representative of Hungary indicated that the minimum wage had increased every year following the reference period. Given that the job seeker's aid remained at 40% of the legal minimum wage, the level of the job seeker's aid had also increased in proportion to the increases of the minimum wage. The amount of the benefit had considerably increased between 2011 and 2013, from €100 to €132, and was now closer to the 50% of the median equivalised income.

138. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

RESC 12§1 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 12§1 of the Charter on the grounds that the minimum levels of sickness, unemployment, survivor's, employment injury and invalidity benefits are inadequate.

Ground of non-conformity (unemployment)

139. The representative of Ireland stated that the report on Article 12§1 had been prepared in 2012 and sent to the Council of Europe, and he could therefore not provide an explanation on why the report had not arrived on time to be examined by the ECSR. In any event, the Government disputed the accuracy of the data used by the ECSR in making its findings on the minimum levels of various benefits, based on the 50% of the median equivalised income threshold. National poverty data should preferably be used to assess the different benefits.

140. The representative of Ireland provided some figures on different benefits, stating that the rates of some social welfare benefits had increased (for example pensions), though some had also fallen (cuts in the unemployment benefit). In 2010, all benefits were over the Eurostat median according to national calculations.

141. The GC invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Other grounds of non-conformity

142. Additional information is to be provided in the next National Report.

RESC 12§1 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 12§1 of the Charter on the grounds that:

- *it has not been established that the minimum level of sickness benefit is adequate;*
- *the minimum level of pension benefit is inadequate.*

First ground of non-conformity

143. Additional information is to be provided in the next National Report.

Second ground of non-conformity

144. The representative of Italy stated that the country had gone through a difficult period of economic crisis during the reference period. However, both pension expenditure and social expenditure to GDP ratio would increase in the next three years, as a reversal of the economic recession had now started. Pensions were annually adjusted on the cost of living (1.2% last year). He also mentioned that monthly benefit rates had increased, for example the minimum income supplement was €501 in 2014 up from €495 in 2013, and the social pension rose from €364 to €368 in the same period.

145. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

RESC 12§1 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 12§1 of the Charter on the grounds that:

- *the minimum level of unemployment benefit is inadequate;*
- *the minimum level of old-age benefit is inadequate;*
- *the minimum level of sickness benefit is inadequate.*

First ground of non-conformity

146. The representative of Lithuania stated that the amounts of the unemployment insurance benefit had increased, notably that there had been an increase of the average and maximum benefits, although the minimum benefit (which was equivalent to state supported income) remained the same and

still did not reach the threshold required by the ECSR. However, the number of persons which were allocated the minimum amount was not significant. And the fact that the country had gone through a period of economic crisis during the reference period was also to be taken into account.

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

Second ground of non-conformity

148. The representative of Lithuania stated that the economic crisis the country had undergone had led to a number of austerity measures, including a reduction of all pensions which were higher than €188. The austerity measures were no longer applied since the beginning of 2014, and the Government would compensate the losses endured by pensioners. The amount of the minimum pensions could therefore not be increased for the moment, but the number of pensioners receiving such minimum pensions was low (around 1.2%).

149. The representative of the ETUC asked for clarification if the compensation for loss of pensions which the Government had committed to was the result of the Constitutional Court decision on this matter. The representative of Lithuania confirmed that such compensations were in effect also the result of implementing the Constitutional Court decision.

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

Third ground of non-conformity

151. Additional information is to be provided in the next National Report.

RESC 12§1 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 12§1 of the Charter on the ground that:

- *the minimum levels of unemployment and sickness benefits are inadequate;*
- *the maximum duration of unemployment benefit is too short.*

First ground of non-conformity

152. The representative of Malta stated that a working group on Social Security Reform had been set up in 2011. Among its goals was to assess the adequacy of social welfare benefits with a more holistic approach, addressing apart from social security issues, other issues related to education, employment and the minimum wage.

153. Active labour market measures as well as youth unemployment schemes had been implemented in the last year. As regards the unemployment benefit, one of the proposals of the working group on Social Security Reform was to double the minimum level of this benefit.

The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

Second ground of non-conformity

154. The representative of Malta provided the following information in writing:

The duration of the unemployment benefit as provided in Article 30 of the Social Security Act (Cap. 318) is up to a maximum of 156 benefit days. In the conclusions above it is noted that where there is a reference to the maximum duration of the unemployment benefit, it is referred to as 156 days (5 months) and not as 156 benefit days.
The unemployment benefit in Malta is paid on a six day per week basis and therefore the maximum duration of 156 benefit days (156/6 = 26 weeks) is equal to six months.
Furthermore, once the six months are exhausted the beneficiary may become entitled to unemployment assistance which is a non-contributory means tested benefit for persons registering for employment. Therefore a person on UB may continue to receive unemployment assistance after the UB is exhausted and hence will continue to be financially assisted by the State.

RESC 12§1 MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 12§1 of the Charter on the ground that it has not been established that:

- *the minimum level unemployment benefit is adequate;*
- *the minimum level of old-age benefit is manifestly inadequate.*

First ground of non-conformity

155. The representative of the Republic of Moldova provided the following information in writing:

Les actes normatifs qui sont à la base d'octroi des prestations de chômage sont**:** Loi n102-XV du 13 mars 2003 sur l'emploi et la protection sociale des demandeurs d'emploi; la Décision du Gouvernement n 862 du 14 juillet 2003 „Sur l'approbation de la procédure d'accès aux mesures d'emploi".

Depuis 1 juillet 2011 on applique les prévisions de la Loi n56 du 9 juin 2011 pour la modification et le complètement de certains actes législatifs dont la Loi n102-XV du 13.03.2003 sur l'emploi et la protection sociale des demandeurs d'emploi. Les modifications prévoyant la révision des conditions d'octroi de l'aide chômage et particulièrement le changement de la base de calcul du montant de l'aide chômage en passant au calcul a la base du salaire moyen de la personne et pas à la base du salaire moyen dans l'économie pour l'an précédent et en augmentant la période contributive 6 à 9 mois de cotisation obligatoire pour bénéficier d'aide de chômage. Ces modifications assurent l'équité entre les chômeurs en protégeant dans une plus grande mesure ceux qui ont contribue plu dans le budget des assurances sociales. Tout en stimulant la population de s'engager dans un emploi légal.

Par conséquent, les chômeurs bénéficient d'aide de chômage s'ils sont enregistrés à l'agence de l'emploi territoriale, qui ont travaillé ayant une période de cotisation au budget des assurances sociales au moins 9 mois des derniers 24 mois calendrier précédant la date d'enregistrement. Le montant de l'aide de chômage est établi de manière différenciée en fonction des circonstances de fin de l'activité de travail de la personne passant en chômage et constitue 50%, 40% ou 30% du salaire moyen de la personne. La période de payement de l'aide de chômage est établie en fonction de la période de cotisation et constitue 12 mois, 9 mois ou 6 mois.

Depuis 2011 le nombre de bénéficiaires des indemnisations diminue de manière continue, par conséquent du semestre I 2014 3,9 mille personnes ont bénéficié d'aide chômage, ce qui constitue 20% moins que pendant la même période de 2013. Cette tendance de diminution du nombre de bénéficiaires est due à: la diminution du nombre de chômeurs enregistrés; non-correspondance aux conditions de la période de cotisation de 9 mois pendant les derniers 24 mois précédant l'enregistrement; le non-transfert au budget des assurances sociales d'Etat par une partie d'employeurs; le refus du

chômeur d'occuper un emploi correspondant ou le refus de participer aux services de stimulation offertes par l'agence.

Comme réponse au Comité on vous informe qu'au cours des derniers ans le poids de bénéficiaires d'aide de chômage du total des chômeurs enregistres aux agences territoriales de l'emploi n'ont pas atteint 10%. Au cours de 6 mois 2014, seulement 9,4% de personnes enregistrées aux agences d'emploi bénéficient de l'aide de chômage, dont 90% sont entrainées dans des mesures actives de l'emploi ayant comme objectif général l'assurance avec un emploi et un revenu stable.

Nombre de bénéficiaires de l'aide de chômage:

Indicateurs	**2011, pers**	**2012, pers**	**2013, pers.**	**6 mois 2014, pers.**
Nombre de chômeurs enregistres aux agences de l'emploi	107973	90130	69760	41031
Nombre de chômeurs bénéficiaires de l'aide de chômage	9545	7682	6351	3877
En % par rapport au nombre de chômeurs enregistres	8,8%	8,5%	9,1%	9,4%

Pour ce qui est le montant de l'aide de chômage il faut mentionner que pendant la période des années 2011-1 juillet 2014 conformément aux prévisions légales le montant de l'aide de chômage est établi en fonction des circonstances de cessation de l'activité de travail de la personne. Les catégories de bénéficiaires peuvent être groupées en 3 groupes de base, en fonction du montant de l'aide de chômage:

50% du salaire moyen de la personne – pour les personnes qui ont perdu leurs emplois à l'initiative de l'employeur;

40% du salaire moyen de la personne – pour les personnes dont le contrat de travail a expiré;

30% du salaire moyen de la personne – pour les personnes qui ont cessé l'activité de travail de propre initiative.

Montant de l'aide de chômage:

Montant de l'aide de chômage,%	2012	2013	6 mois de 2014
	Nr. bénéficiaires, pers	Nr. bénéficiaires, pers	Nr. bénéficiaires, pers
50% du salaire moyen de la personne licenciée	2958	2532	1358
40% du salaire moyen de la personne dont le contrat de travail a expiré	1777	1567	992
30% du salaire moyen de la personne qui a démissionné	2947	2252	1527

Concernant la question sur la valeur minimale de l'aide de chômage il faut dire que suite aux modifications à la législation, le montant de l'aide de chômage a été plafonnée et notamment elle ne peut pas etre inferieure au salaire minimale établi dans le pays et ne peut pas dépasser le salaire moyen dans l'économie pour l'année précédente. Conformément aux données statistiques, avec un poids assez important d'environ 30% du total de bénéficiaires, on atteste des personnes qui touchent l'aide de chômage en montant minimal, qui au moment de rapport constitue 600 lei. Ce fait est du au niveau bas du salaire moyen réalisé pendant la période e décompté conformément aux certificats de salaire présentés pour l'établissement de l'aide de chômage.

En ce qui concerne le montant moyen de l'aide de chômage le tableau ci-dessous démontre que ce montant diminue, ce qui n'est pas le cas avec son poids dans le salaire moyen dans l'économie nationale. Le poids de l'aide de chômage du salaire moyen dans l'économie nationale de la république atteint environ 30%.

Montant moyen de l'aide de chômage:

Ans	Montant moyen de l'aide de chômage, lei	Salaire moyen dans l'économie nationale, lei	Poids de l'aide e chômage dans le salaire moyen dans l'économie nationale, %
2012	1040,3	3478	29,9%
2013	1030,9	3765	27,4%
6 mois 2014	1126,3	4500	25,0%

En faisant référence sur la durée de l'aide de chômage conformément à l'article 33 de la Loi 102 personnes ayant droit bénéficient de l'aide de chômage une période qui est établie de manière différenciée, en fonction de la durée de cotisation, comme suit:

6 mois calendrier, en cas de période de cotisation de jusqu'à 5 ans, mais au moins 9 moi calendrier, en cas d'une période entre 5 et 10 ans;

12 mois calendrier, en cas de période de cotisation de plus de 10 ans.

Le poids des personnes qui ont reçu l'aide social pour la période de 9–12 mois constitué environ 47%, suivie de 3–6 mois – 24%, 6–9 mois –16% et moins de 3 mois – 13%.

L'augmentation des emplois disponibles gérés par les agences territoriales de l'emploi, ainsi que le croissement de l'emploi des bénéficiaires ont générés la diminution de la période de payement de 6,1 mois en 2011 à moyen 5,4 mois en 2013.

Conformément aux prévisions légales les personnes qui ont refusé sans motif un emploi correspondant sont dépourvus du droit à l'aide de chômage. En comparaison avec l'an 2011, en 2013 les agences de l'emploi ont enregistrés plus de 30 milles emplois vacants, qui de manière obligatoire sont proposés aux potentiels bénéficiaires de l'aide de chômage. Analysant le motif de cessation du payement de l'aide de chômage au cours de 2013 on constate que le poids le plus grand de 44,2% appartient aux personnes qui ont reçu l'aide de chômage pour toute la période établie par la législation, étant suivis par les personnes, dont l'aide de chômage a été cessé à cause de placement avec un poids de 32%.

En ce qui concerne les frais destinées à l'ide de chômage il faut mentionner que le payement de l'indemnité de chômage est financé des moyens du budget des assurances sociales d'Etat. Pendant la période de 2012-2014 les frais liés à l'octroi de l'aide de chômage ont diminué.

Frais pour l'octroi de l'aide de chômage:

Ans	Total frais budget d'Etat et budget assurances sociales d'Etat „Protection des chômeurs", mille lei	Frais du budget des assurances sociales pour l'octroi de l'aide de chômage, mille lei	% des frais pour l'octroi de l'aide de chômage en total frais, %
2012	67398,5	44914,6	66,6%
2013	59970,2	36246,3	60,4%

6 mois 2014	29745,6	16052,9	53,9%

Second ground of non-conformity

156. The representative of Moldova underlined the difficult economic context of the country. Whilst it was true that some of the minimum pensions fell below the poverty line, there had been some small increases of the latter, and the pensions were indexed every year on 1st April. Moreover, efforts were being made to assist those persons receiving minimum pensions, via social assistance or a new benefit available since 2011 (for support during the winter period). She also mentioned a National Strategy on Development, which included a component on health and social protection.

157. The representative of Ukraine asked what percentage of pensioners was living below the poverty line in the country. The representative of Moldova replied that this affected mostly elderly persons in rural areas, approximately around 150.000 persons.

158. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

RESC 12§1 MONTENEGRO

The Committee concludes that the situation in Montenegro is not in conformity with Article 12§1 of the Charter on the ground that it has not been established that:

- *the minimum levels of pension and unemployment benefits are manifestly inadequate.*
- *the duration of unemployment benefit is too short.*

First ground of non-conformity

159. The representative of Montenegro stated that there were no changes as regards the level of minimum pensions. Out of a total of 109 000 pensioners, only 3%, that is, 3 400 received the minimum pension. The authorities were aware of the need to increase the minimum pension, which would be done when the economic activity improved.

160. As regards the unemployment benefit, the representative of Montenegro indicated that it was defined by the Employment Law and could not be lower than 30% of the average wage in the preceding 6 months. There had been some improvements on the level in recent years. The minimum wage on 1 April 2013 was €193, showing an increase compared to 2010 when it was €143. As compensation for unemployment was set at 40% of the minimum wage, unemployed persons received €96 gross value (€77 net).

161. The GC took note of the positive developments announced as regards the unemployment benefit, encouraged the Government to undertake similar efforts regarding pensions, and decided to await the next assessment of the ECSR.

RESC 12§1 NETHERLANDS

The Committee concludes that the situation in the Netherlands is not in conformity with Article 12§1 of the Charter on the ground that it has not been established that there is a reasonable initial period during which an unemployed person may refuse unsuitable job offer without losing his/her unemployment benefit.

162. The representative of the Netherlands provided the following information in writing:

Reaction of the Netherlands

An employee receiving an unemployment benefit, has(among others) the obligation to seek and accept suitable employment. Work that is not suitable for him or her, may be refused.

The *directive suitable work 2008* contains standards concerning the definition of 'suitable work'.

According to the directive, during the first half year of the unemployment period, the employee has the right to search for a job responding to the qualifications he or she has acquired through study and/or work experience. After the first passed half year of unemployment, one is obliged to search for work that is qualified one level lower than the level of the preceding half year.
The Unemployment Law (WW) prescribes that after one year of employment every level of employment is considered to be suitable. However, the fact remains that work is not considered to be suitable in the case that accepting it is not required due to physical, mental or social circumstances.
The Netherlands consider the initial period of one year as a reasonable period during which an unemployed person may refuse an unsuitable job offer. The 'directive suitable work 2008' is based on standing case law regarding the concept of 'suitable work'.
The policy of the Netherlands concerning 'suitable work' within the framework of the Unemployment Law is considered –by the ILO and the Council of Europe- to be in compliance with the European Code of Social Security of the Council of Europe.
This leads to the conclusion that, in the vision of the Netherlands, we do comply with article 12.1 of the Charter.

RESC 12§1 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 12§1 of the Charter on the ground that the minimum level of sickness benefit is manifestly inadequate.

163. Additional information is to be provided in the next National Report.

RESC 12§1 ROMANIA

The Committee concludes that the situation in the Romania is not in conformity with Article 12§1 of the Charter on the ground that:

- *the minimum level of unemployment benefit is manifestly inadequate;*
- *it has not been established that the legislation provides an effective guarantee of protection against unemployment risk;*
- *it has not been established that the minimum level of sickness benefit is adequate.*

First ground of non-conformity

164. The representative of Romania explained that people that were 'treated as unemployed' were not persons insured by the social security system; they were graduates from educational facilities, over 16 years and who failed to get a job according to their training. They were granted an amount of

€56 during six months while searching for a job. This was therefore not strictly speaking an unemployment benefit, as the persons were not required to have previously contributed to the social security system.

165. The GC noted that there had been a misunderstanding with the information provided to the ECSR. It invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Second ground of non-conformity

166. The representative of Romania provided the following information in writing:

II. Specific legislation states that do not receive unemployment benefit the persons who, when demanding their right to this benefit, refuse a job suitable to their training or level of education or refuse the participation in employment stimulation and professional training services provided by the employment agencies.

The existence of an initial period in which the person can refuse an inadequate job offer, without loosing the right to unemployment benefit, is not provided.

On national level, particular emphasis is placed on activating against passive financial support. Thus, the people who receive unemployment benefit have the following main obligations:

- to monthly report, based on an appointment or whenever requested to the employment agency where are recorded, to receive support for employment;
- to participate in the employment stimulation and professional training services provided by the employment agency where are recorded;
- to actively seek a job.

Third ground of non-conformity

167. The representative of Romania provided the following information in writing:

III. According to the provisions of art. 1 para. (1) and para. (2) of the *Government Emergency Ordinance no. 158/2005 on leave and health social insurance allowances, as subsequently amended and supplemented,* insured persons for leave and health social insurance allowances in the health social insurances system, referred to as insured persons, have the right, under the condition of this emergency ordinance, during their domicile or residence in Romania, to sick leave and health social insurance allowances, if:

A. perform activities based on an individual employment contract or based on a work relation, and also any other dependent activities;

B. perform activities in elective positions or are appointed in the executive, legislative or judicial authorities, during the term of office, and also the cooperative members of a handicraft organization, whose rights and obligations are treated, under this law, with the persons referred to at point A;

C. receive monthly emoluments paid from the unemployment insurances budget, under the law.

The same rights apply to persons who are not in one of the situations provided in para. (1), but are:

a) partners, limited partners or shareholders;

c) members of the family association;

d) authorised to carry out independent activities;

e) persons who sign a contract of social insurances for leave and maternity leave allowances and allowances for sick child care, if they started the contribution period before 1 January 2006.
According to art. 2 para. (1) of the law mentioned above, the sick leave and health social insurance allowances, which the insured persons are entitled to, under the conditions of this emergency ordinance, are:

a) sick leave and allowances for temporary work incapacity, caused by common illnesses or by accidents outside the work place;

b) sick leave and allowances to prevent illness and work capacity recovery, only for situations resulted from work accidents or occupational diseases;

c) sick leave and maternity allowances;

d) sick leave and allowances for sick child care;

e) sick leave and allowances for maternity risk.

Art. 4 para. (2) of the GEO no.158/2005, with the subsequent amendments and supplements, establishes that the contribution rate for leave and allowances, exclusively intended to finance payment expenses of the right provided by this emergency ordinance, is of 0.85%, applied at the wages fund or, where appropriate, to the rights representing unemployment benefits, on incomes subject to income tax or on incomes listed in the social insurance contract concluded by the persons provided in art. 1 para. (2) point. e), and are paid in the National Fund of Health Insurance.
On those shown, we mention that collecting the contribution for leave and allowances to benefit of leave and health insurance allowances, for individuals, other than the ones for which the income collection is made by the NAFA, is optional.

In accordance with art. 6 para. (2) and (6) of the GEO no. 158/2005, with the subsequent amendments and supplements, legal or natural persons provided in art. 5 point. a) have the obligation to pay the contribution rate for leave and allowances of 0.85%, applied at the wage fund achieved, in compliance with the provisions of the financial and tax legislation in the field. By wage fund achieved, under the purpose of this emergency ordinance, shall mean the total amounts used by an employer to pay wages or benefits related to wages.

To qualify for leave and allowances, the persons referred to in art. 1 para. (2) are required to submit the insurance statement for leave and allowances to the National Health Insurance Fund where they are registered as payers of health care contributions. The share of contribution for leave and allowances of 0.85% is due to the incomes subject to income tax according to the provisions of the Law no. 571/2003 regarding the Fiscal Code, with the subsequent amendments and supplements or on the incomes declared in the social insurance contracts, for the persons referred to in art. 1 para. (2) point. e).

Also, para. (8) and (9) of art. 6, establish that, the monthly calculation basis for leave and allowances contribution for the persons referred to in art. 1 para. (1) can not be higher than the product of the number of insured persons for the month for which the contribution is calculated and the value of 12 minimum gross wage by country.
The monthly calculation basis of the contribution for leave and allowances for the persons referred to in art. 1 para. (2) can not exceed the ceiling of 12 minimum gross wages by country.

The minimum contribution period to entitlement the rights provided in art. 2 para. (1) point a) - d) is one month in the last 12 months preceding the month for which sick leave is granted, as set out in art. 7.
According to art. 8 of the GEO no. 158/2005, with the subsequent amendments and supplements, the contribution period in the health insurance system, consists in summing the periods:
a) for which the contribution for leave and allowances by the employer or, where appropriate, by the insured person, namely by the insurance fund for work accidents and occupational diseases or the unemployment insurance budget.

Is added to the contribution period in the health insurance system the periods in which the insured person benefits of leave and allowances provided by this emergency ordinance.
Is added to the contribution period in the health insurance system also the periods in which the insured person:

a) received a disability pension;

b) attended higher education day courses, organized according to the law, on the normal duration of the studies, provided the graduation;

c) received maternity leave and allowances for child aged up to 2 years old, or in the case of disabled child, up to 3 years old, according to the Government Emergency Ordinance no. 148/2005 on family support for child care, approved with amendments and supplements by the Law no. 7/2007, with the subsequent amendments and supplements, namely the periods in which the insured persons received the rights provided in art. 12 para. (1) point b) of the Law no. 448/2006 on the protection and promotion of the rights of disabled people, republished, with the subsequent amendments and supplements.

It should be noted that. Insured persons have the right to leave and allowances for temporary work incapacity, without contribution period conditions, in the cases of surgical emergencies, tuberculosis, infectious and contagious group A diseases, malignancies and AIDS. The list of surgical emergencies and infectious and contagious group A diseases is established by Government Decision.

Under the provisions of art. 10 of the GEO no. 158/2005, with subsequent amendments and supplements, the basis for calculating the allowances provided in art. 2 is determined as the average of the monthly incomes of the last 6 months of the 12 months which is the contribution period, up to the limit of 12 monthly minimum gross wages in the country, on which basis is calculated the contribution for leave and allowances.

When establishing the 6 months of which, according to the provisions of para. (1), shall be the basis of calculating the allowances are used the periods added to the contribution period provided by art. 8 para. (2) and (3), the incomes to be taken into account are:

a) the social insurance allowances enjoyed by the insured persons, provided in art. 8 para. (2);

b) the national minimum gross wage on those periods, for the situations provided in art. 8 para. (3) points a) and b);

c) the monthly allowance for child care for child aged under 2 years, or in the case of disabled child, for 3 years, according to the Government Emergency Ordinance no. 148/2005, approved with amendments and supplements by the Law no. 7/2007, with the subsequent amendments and supplements, and the allowance for disabled child aged between 3 and 7 years, according to the Law no. 448/2006, republished, with the subsequent amendments and supplements, for the situations provided in art. 8 para. (3) point c).

Regarding the allowance for temporary work incapacity shall be incurred as follows:

A. by the employer, from the first day to the 5th day of the temporary work incapacity;

B. from the National Health Insurance Fund, starting with:

a) the next day of the ones incurred by the employer, according to point A, and up to the date of the termination of temporary work incapacity of the insured person or his retirement;

b) the first day of temporary work incapacity, in the case of the insured persons provided in art. 1 para. (1) point. C and para. (2), as set out in art. 12 of the mentioned regulation.

According to the provisions of art. 13 of the GEO no. 158/2006, with the subsequent amendments and supplements, the duration of granting allowances for temporary work incapacity is of maximum 183 days within one year, counted from the first day of illness.

From the 91st day, the leave may be extended by the doctor to 183 days, with the approval of the social insurances specialist.

The duration of the leave and allowance for temporary work incapacity is higher in the cases of special diseases and differ as follows:

a) one year, within the last 2 years, for tuberculosis and some cardiovascular diseases, established by the National Health Insurance Fund, hereinafter CNAS, with the approval of the Ministry of Health;

b) one year, with the right of extension to one year and 6 months by the specialist doctor of social insurances, within the last 2 years, for meningeal, peritoneal and urogenital tuberculosis, including adrenal glands tuberculosis, for AIDS and cancer, depending on the stage of the disease;

c) one year and 6 months, within the last 2 years, for pulmonary and osteo-articular tuberculosis operated;

d) 6 months, with the possibility of extension to maximum one year, within the last 2 years, for other forms of extra pulmonary tuberculosis, with the approval of the specialist doctor of social insurances, as provided in art. 13 of the GEO no. 158/2005.

In accordance with art. 14 of the GEO no. 158/2005, with the subsequent amendments and supplements, the physician or, when appropriate, the specialist doctor in the main disabling condition may propose disability retirement if the patient was not recovered at the termination of the periods of allowance granting for temporary work incapacity, provided by this emergency ordinance.

In situations highly justified by the possibility of the recovery, the physician provided in para. (1) may propose the extension of the sick leave over 183 days, to avoid disability retirement and to maintain the insured person in the labour market.

The social insurance specialist doctor, decides, as appropriate, the extension of the sick leave to continue the recovery program, reducing the working hours, resuming the activity in relation with the professional training and skills or the disability retirement.

Extending the sick leave over 183 days will be made for maximum 90 days, according to the procedures established by the National House of Pension and other Social Insurance Rights, hereinafter CNPAS, along with the CNAS, in relation with the evolution of the case and the results of the recovery actions.

Regarding the gross amount of the temporary work incapacity allowance, it is determined by applying the 75% on the basis of calculation of the allowance is determined as an average of the monthly incomes of the last 6 months of the 12 months that is the contribution period, up to the limit of 12 monthly minimum gross wages per country, on which is calculated the contribution for leaves and allowances.

We mention that the monthly gross amount of the temporary work incapacity allowance, determined by tuberculosis, AIDS, cancer, and also by a infectious and contagious group A diseases and by surgical emergencies established under the conditions provided in art. 9, is 100% of the basis calculation, as set out by art. 17 of the GEO no 158/2005, with the subsequent amendments and supplements.

RESC 12§1 RUSSIAN FEDERATION

The Committee concludes that the situation in Russian Federation is not in conformity with Article 12§1 of the Charter on the ground that the minimum level of unemployment benefit is manifestly inadequate.

Ground of non-conformity

168. The representative of the Russian Federation stated that her Government agreed with the assessment of the ECSR. Following the conclusion of non-conformity a working group had been set up to examine issues related to social protection of unemployed persons. Several options were being discussed, including the rising of the minimum and maximum amounts of the unemployment benefit. An amendment of the Law on the Employment of the Population was foreseen to such effect.

169. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

RESC 12§1 SERBIA

The Committee concludes that the situation in Serbia is not in conformity with Article 12§1 of the Charter on the ground that the duration of the unemployment benefit is too short.

170. The representative of Serbia provided the following information in writing

Regarding the opinion of the European Committee on Social Rights on the Report on application of Article 12, paragraph 1 of the Revised European Social Charter in the Republic of Serbia here is the explanation provided by the Employment Department:
Regarding the question about the minimum amount of the unemployment benefit, the amount of the average minimum unemployment benefit that is disbursed in the period January –June 2014, at the level of 80% minimum wages – it is RSD 13,676.44 net (RSD 21,470.08 gross – i.e. the net amount with pension and disability contribution), which, given the depreciation of the EUR as of 2011, represents the lowest value in the amount of EUR 140.
The amount of the minimum wages for July 2014 is RSD 21,160.00 net, or RSD 28,528.00 gross.
Regarding the question about the period in which the unemployment benefit is disbursed, we emphasise that under the Law on Employment and Unemployment Insurance (Official Gazette of RS, 36/09 and 88/10 – hereinafter referred to as: the Law) the unemployment benefit is disbursed to the unemployed person:

- ✓ In the period of three months in case of one to five year insurance period completed by the unemployed person
- ✓ Six months for five to 15 years insurance period completed,
- ✓ Nine months for 15- 25 insurance period completed,
- ✓ Twelve months for 25+ year insurance period completed.

Exceptionally, 24 months if the unemployed person lacks two years to fulfil the first condition for exercising the entitlement to pension under the law on pension and disability insurance.

Also, the unemployed person who is the recipient of unemployment benefit for the period of minimum three months from the moment of having its entitlement recognised and who also enters into employment relation for indefinite period, is entitled to the one-off incentive fro employment in the amount of 30% of a total amount of the unemployment benefit, without compulsory social insurance contribution, that would have been disbursed to him/her for the rest of the period before the expiry of the entitlement to unemployment benefit.

Such provision has been identified in the course of drafting of the Law that become effective/came into effect in 2009, because one of its basic intentions was to change the focus of passive and active employment policy measures and reduce expenditure for passive measures in favour of the active ones. The ultimate goal of this measure is activation and motivation of the unemployed to actively seek job.
Regarding the question about the reasonable initial period as well as of the possibility to withdraw the benefit in case the worker has no longer been registered with the National Employment Service as an unemployed person, we state that under the Law such person who is not a recipient of unemployment benefit is allowed to refuse the offered adequate employment/job and/or to become involved in active employment policy measure in accordance with his/her duly defined individual employment plan only in case s/he is temporarily unable to work under the health insurance law.
Also, under the Law, the National Employment Service and the unemployed person jointly define and draft the individual employment plan within 90 days at the latest from the moment of his/her registration as an unemployed person. Such individual employment plan is defined and devised in the course

of individual discussion and interview conducted by the employment / job counsellor, after the duly conducted employability assessment involving the assessment of level of capability, i.e. skills and knowledge gained in the course of the training (i.e. the level of professional/field-specific/expert knowledge, work experience, other special knowledge and skills), and also after duly conducted verification that the candidate's expectation from the future job and conditions at labour market match, as well as after verified level of readiness to migration and the level of motivation. On the basis of the conducted employability assessment as well as the overall discussion and interview conducted with the unemployed person and agreement is made on the jobs to which the person will be referred and the measures and programmes in which the person will be involved. The reasons for deletion for the registry of the unemployed are contained in Article 87 of the Law, which, *inter alia*, provides for the deletion in case the unemployed should refuse the offered mediation in employment regarding suitable employment or participation in active employment policy measures as defined in the individual employment plan. However, given that these measures are defined in mutual agreement between the job counsellor and unemployed person, it is highly unlikely that such a person would be offered a measure that s/he would refuse, and thus be deleted from the register of the unemployed.

RESC 12§1 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 12§1 of the Charter on the ground that:

- *the minimum levels of sickness and unemployment benefits are manifestly inadequate;*
- *the duration of unemployment benefit is too short;*
- *the minimum level of pension benefit is manifestly inadequate.*

First and third grounds of non-conformity

171. The representative of Slovenia stated that her Government did not fully agree with the conclusion of the ECSR. As regards the minimum pension, since January 2011 it could be topped up with two forms of assistance: an income supplement as well as financial social assistance, and recipients could receive a total amount of €527, which was above the poverty line. No changes were foreseen with respect to the minimum unemployment benefit, given the difficult financial situation of the country, but it was recalled that the level of this benefit had been negotiated with the social partners.

172. The GC took note of the positive developments announced as regards the minimum pension, encouraged the Government to undertake similar efforts regarding the unemployment benefit, and decided to await the next assessment of the ECSR.

Second ground of non-conformity

173. Additional information is to be provided in the next National Report.

RESC 12§1 SLOVAK REPUBLIC

The Committee concludes that the situation in Slovak Republic is not in conformity with Article 12§1 of the Charter on the ground that:

- *the minimum level of unemployment benefit is inadequate;*
- *the minimum level of sickness benefit is inadequate;*
- *the minimum level of pension benefit is inadequate;*

- *the ground on which sickness benefit can be reduced is discriminatory.*

First and third grounds of non-conformity

174. The representative of the Slovak Republic indicated that the system of social insurance did not operate on the notion of defined minimum benefits. As the levels of average income and minimum wage were continuously rising so were the actual amounts of the benefits in question. Moreover, other allowances and benefits could be applied for under state social assistance (material need allowance, childcare allowance, childbirth allowance, parent allowance and others). Finally, the number of persons receiving the "minimum level" of unemployment benefit or old age pension was low (less than 2% of the population).

175. The GC took note of the positive developments announced and decided to await the next assessment of the ECSR.

Fourth ground of non-conformity:

176. The representative of Slovak Republic provided the following information in writing:

The representative of the Slovak Republic has informed the Governmental Committee about the situation concerning the first and the third ground of non-conformity in May 2014. It has to be stated that the same applies to the second ground. For the record, the Committee has been informed that that the system of social insurance, from which all of these benefits are provided, does not operate with defined minimums for any of these benefits. The amount of these benefits is calculated on the basis of the daily assessment base and the level of income reached.

As the levels of average income and the minimum wage are continuously rising, so are the actual amounts of these benefits. As there are no defined minimum levels of these benefits, a person earning the minimum wage before any of the events referred to occurred, could be considered as a beneficiary of the lowest amount of these benefits.

However, it has to be pointed out that the number of persons earning the minimum wage is lower than 2% of the total population and therefore the amount of people with "minimum" unemployment benefit or old age benefit, is very low.

Nevertheless, there have been developments. The unemployment benefit that would be provided to a person having earned the minimum wage prior to becoming unemployed would be 164 EUR in 2013. If a person would be earning average wage, their unemployment benefit would be 405 EUR in 2013.

As far as old age benefit is concerned, a person having earned the minimum wage prior to reaching the pension age would get 222 EUR. If a person would be earning average wage, their old age benefit would stand at 432 EUR.

As far as sickness benefit is concerned, a person having earned the minimum wage prior to reaching the pension age would get 173,8 EUR. If a person would be earning average wage, their old age benefit would stand at 427,5 EUR.

It should also be stated that the level of replacement rates in the Slovak Republic is in accordance with the requirements of the European Code on Social Security, and therefore the Article 12 paragraph 2 of the Revised Charter. Even though the Slovak Republic has not ratified the Code, the replacement rate in the Slovak Republic, as regards the unemployment benefit, was more than 61%, which exceeds the requirements stipulated by the Code by more than 16%. As far as the old age ben-

efit is concerned, the replacement rate in the Slovak Republic stood at almost 52%, which again exceeds the requirement of the Code, this time by almost 12%.

On top of that, it has to be mentioned that every person has the right to apply for benefits from the state social assistance. The state social assistance is granted to each person who meets the required criteria, generally speaking, having insufficient income or insufficient means to secure adequate living conditions. Benefits such as the material need allowance, protection allowance, activation allowance, housing allowance, childcare allowance, childbirth allowance, parent allowance, childminding allowance and other benefits provided within the system of state social assistance are aimed at helping people who are unable to secure a decent lining on their own to make sure that these persons are not left helpless.

To sum up what has been said, even if a person in the Slovak Republic is provided with a "minimum level" of unemployment benefit or old age pension (less than 2% of the total population), they are able to apply for any of the allowances provided within the system of the state social assistance to make sure they have adequate means to secure standard living conditions.

As far as the fourth ground of non-conformity is concerned, it has to be stated that the ECSR has misinterpreted this aspect of the social insurance. Article 111 paragraph 1 of the Act 461/2003 Coll on Social Insurance states, that 50% of the sickness benefit is paid in case when the person concerned has caused injury to themselves when they have been under the influence of alcohol or drugs. It does not mean that 50% of the sickness benefit is paid if the sickness has been a consequence of alcohol or drug abuse, as in this case the full sickness benefit is paid.

RESC 12§1 SWEDEN

The Committee concludes that the situation in Sweden is not in conformity with Article 12§1 of the Charter on the grounds that:

- *it has not been established that the minimum level of unemployment benefit is adequate;*
- *it has not been established that the minimum level of sickness benefit is adequate.*

177. The representative of Sweden provided the following information in writing:

In the conclusions dated January 2014 (Conclusions 2013), the Committee concluded that Sweden is not in conformity with Article 12§1 of the European Social Charter (revised) due to a lack of information regarding the minimum level of sickness benefit or unemployment benefit combined with other supplementary benefits. As stated in previous reports, no statistical data is available that shows the total amount that individuals receive from different benefits. Due to this, the requested information is provided below by descriptions of supplementary benefits and examples of applicable levels of these that an individual who receives sickness benefit or unemployment benefit can be entitled to, in order to uphold a reasonable standard of living.

In line with the previous statement by the Government, the Government maintains the position that the Swedish social security system provides an adequate and sufficient financial support for unemployed and sick individuals and consequently fulfils and respects the requirements of Article 12§1 of the European Social Charter.

Sickness benefit

The sickness benefit level depends on the individual's income. and the normal level is 77.6 per cent of the person's income from work. The Swedish wage setting system is based on collective agreements between employers' organisations and trade unions. There is no minimum wage set by law. As a consequence, there is no minimum level in the sickness benefit scheme. Almost everyone working in Sweden has an income qualifying for sickness benefit, which also applies to a person who has left his or her job and is seeking for a new job. There is, however, no statistical data available regarding the general coverage, as registration of such income is done when a person applies for benefit. Rules about income qualifying for sickness benefit can be found in the Code of Social Security *(Socialforsakringsbalken),* Chapter 26.

There is, however, one exception to the rule regarding no minimum level in the sickness benefit scheme. Young individuals, at the age of 19-29 years, can be granted activity compensation *(aktivitetsersattning)* (a kind of temporary disability benefit), if their working capacity is lastingly reduced due to sickness. Activity compensation is not part of the sickness benefit scheme but a person who has reached the age limit for activity compensation and does not have an income qualifying for sickness benefit or an income that is below 80 300 SEK per year, can receive sickness benefit in special cases *(sjukpenning i sarskilda fall) .* This benefit is paid for all days of the week at 160 SEK per day. The benefit is lower if the working capacity is only partly reduced or if the person receives ordinary sickness benefit for the same period. Rules about sickness benefit in special cases can be found in the Code of Social Security, Chapter 28 a.

Individuals who receive sickness benefit in special cases are also entitled to a special supplementary housing allowance *(boendetillag,g).* The size of this allowance depends on if the individual is married or not and if the individual has children. An unmarried recipient of sickness benefit in special cases receives 84 OOO SEK per year in supplementary housing allowance. A married person can receive 42 OOO SEK per year. The allowance is higher if a person has children: 12 OOO SEK additionally per year if a person has one child, 18 OOO SEK additionally per year if a person has two children and 24 OOO SEK additionally per year if a person has three or more children. The size of this housing allowance is not dependent on the individual's costs for housing. Rules about special supplementary housing allowance can be found in the Code of Social Security, Chapter 103 a-d.

Based on the construction of the social security system, the sickness benefit should be viewed together with other intertwined benefits when evaluating the support a sick person receives. Other supplementary benefits are described below.

Unemployment benefit

As stated in the previous answer, the Swedish Government cannot present the average monthly amount that a typical unemployed person might receive from the basic unemployment benefit *(grundersattning)* plus additional benefits. People covered by the basic insurance are paid a *basic level* of benefit per benefit day, linked to the amount the job seeker worked prior to becoming unemployed. The highest basic level that can be paid per month is 7 040 SEK.

Based on how the social security system in Sweden is constructed, the different types of benefits are intertwined and should not be viewed as a number of individual benefits when evaluating the support an unemployed person receives. For example, an unemployed person with two children will receive 2 250 SEK per month in child allowance. If the same person is a single parent he/she can receive maintenance allowance with 2 546 SEK per month. This unemployed person will have a disposable income of approximately 10 280 SEK per month. In addition, the unemployed person can receive housing allowance (see below).

An unemployed person above the age of 29 who does not have children is consequently not entitled to child allowance nor to housing allowance, but can be entitled to social assistance (see below).

Supplementary benefits

Housing allowance

Housing allowance *(bostadsbidrag)* is targeted to households with children and young people between the age of 18 and 29 years. The allowance depends on the household's income, the size of the residence and the cost for housing. The average allowance for parents is estimated to 2 671 SEK per month and for young people 954 SEK per month in 2014. About 190 OOO households with children and 62 OOO households with young people receive housing allowance. The housing allowance is regulated by the Code of Social Security, Chapter 94-98.

Social Assistance

A sick individual who has no qualifying income for sickness benefit or a low such income, as well as an unemployed individual can be entitled to social assistance *(forsorjningsstod).*

Social assistance is the ultimate safety net in the social welfare system. It is regulated in the Social Services Act. Social assistance can be seen as a complementary support to the social security system. The level is partly decided on a national level – the national norm - by the Government and partly by the municipalities. The national norm is based on calculations of the National Board for Consumer policies *(Konsumentverket).*

Anyone who is unable to provide for his or her needs or to obtain provision for them in any other way, is entitled to social assistance.The aim of the assistance is to assure the individual a reasonable standard of living. Social assistance is means tested, which includes income of thewhole household. All income reduce social assistance, with two exceptions. A person who has received social assistance for a period of six months is entitled to deduct 25 per cent of his or her income from work when assessing the need for social assistance. Income (up to 44 400 SEK per year) from work received by a child or a person who is attending school and is younger than 21 years old shall not be included when assessing the need for the household's social assistance. The aim of these special rules is to increase the incentives of taking temporary jobs or for young persons to work during vacations.

The national norm can be considered as the minimum level and shoul cover basic consumption, i.e. food, clothing, shoes, leisure, hygiene products, daily paper, telephone calls, television and radio licence. The level is different for various age groups and types of households. In addition to the national norm , the municipalities are obliged to grant support for reasonable costs for housing, travel to work or to job searching, household electricity, home insurance, unemployment insurance and trade union membership. Furthermore, additional social assistance may be granted for other expenditures, e.g. dental and medical care. In the table below these extraordinary expenses are not included.

Examples of levels of social assistance per year, figures in SEK and referring to year 2012.

	Single person household	Single parent two children (age 7 and 10)	Couple two children (age 7 and 10)
National norm - income support			
Sum of personal costs for two children living at home	0	57 360	57 360
Personal costs adults	35 040	35 040	63 240
Common household expenses	11 040	15 600	17 760
Housing costs	58 080	103 020	103 020
Cost related to other aspects of life	based on needs	based on needs	based on needs
"Reasonable standard of living" that should be ensured by social assistance	104 160	211 020	244 380
Leisure activities for children 10-15 years of age in households receiving social assistance six months or more	0	3000	3000
Reasonable standard of living plus leisure activities.	104 160	214 020	247 380

Source: National Board of Health and Welfare, City of Malmo and Statistics Sweden

Social assistance is complementary to other income. The reasonable standard of living that should be provided for by social assistance will therefore be reduced if a household has other income or transfers, such as housing allowance, universal child allowance, possible large family supplement and maintenance support.

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

RESC 12§2 MOLDOVA

The Committee concludes that the situation is not in conformity with Article 12§2 of the Charter on the ground that it has not been established that the Republic of Moldova maintains a social security system at a level at least equal to that necessary for the ratification of the European Code of Social Security.

178. The representative of the Republic of Moldova provided the following information in writing:

La situation précaire économique dans la République de Moldova, le manque des ressources naturelles et la migration de travail importante continue à affecter les collections dans le budget des assurances sociales et, respectivement le montant de la pension minimale, qui est parfois au dessous du seuil de pauvreté.

En vertu de l'information du Ministère de l'Economie concernant la pauvreté en 2012 le seuil de pauvreté absolue est d'environ 1100 lei (2012), et le seuil de pauvreté extrême est de 620 lei. En 2012 le pourcent de la population affectée par la pauvreté est seulement de 0,8% (milieu rural).
En même temps, le Gouvernement est toujours préoccupé à identifier les sources financières et les modalités de remédier à la situation des plus pauvres catégories de population.
Annuellement le 1 avril on effectue l'indexation des pensions - 2011 – 7,8%, 2012 – 9,6%, 2013 - 6,75%, 2014 - 6,45%.
Si en 2011 la pension minimale en agriculture constitue 570,66 lei, et pour les autres bénéficiaires – 641 lei, à partir le 1 avril 2013 le montant minimum de la pension indexée constitue:
667,66 lei – pour les agriculteurs;
749,96 lei – pour les autres bénéficiaires;
Le 1 avril 2014 – la pension des agriculteurs constitue 710,72 lei, et pour les autres bénéficiaires - 789,33 lei.
Hors cela, à partir le 1 avril 2013 tous les mois on accorde un support financier d'Etat à certains bénéficiaires de pensions, dont le montant après l'indexation de 1 avril 2013 ne dépasse pas 1300 lei, en fonction de la catégorie de bénéficiaire:
1) bénéficiaires de la pension intégrale – 90 lei;
2) bénéficiaires des pensions incomplètes – 50 de lei;

En même temps les personnes qui ont un revenu bas ont le droit de solliciter l'octroi de l'aide social et de l'aide pour la période froide de l'année.

Au mois de juillet 2012 le Gouvernement a approuvé la Stratégie nationale de développement, dont l'objectif principal est l'accroissement économique et la lutte contre la pauvreté. Cette stratégie représente une vision de développement économique de long terme.
Conformément à la stratégie, la santé et la protection sociale sont parmi les domaines les plus importants pour le développement durable du pays. L'un des objectif est d'amplifier la couverture budgétaire pour la promotion des politiques appropriées dans ces secteurs, suite à un développement économique accéléré, y compris en utilisant effectivement l'assistance externe.

Le 7 mai 2014 le Gouvernement a également approuvé la Plan d'action pour les années 2014-2016 sur le soutien de la réintégration des citoyens revenus de l'étranger. Conformément à certaines études environ 60% de migrants ont l'intention de revenir dans le pays. Ceux-ci assez souvent disposent d'un bon potentiel économique et environ 30% d'eux ont manifesté l'intention d'investir dans l'économie du pays de manière indépendante ou en partenariat avec les autorités publiques.
Les objectifs clé du plan sont: consolidation des liens avec les citoyens de la RM à l'étranger; leur information correcte et permanente sur la situation sur le marché de travail et la médiatisation continue des opportunités de retour et d'embauche dans le pays, la mise en œuvre des actions qui contribueraient au développement d'un milieu favorable pour les affaires, initiation du procès de reconnaissance des qualifications et de habilites.

Au moi de juin l'Accord d'Association avec l'Union Européenne a été signé. La partie intégrante de cet accord est l'Accord de Libre Echange approfondi et complet. Conformément à certaines estimations la signature de l'Accord d'Association est prévue pour le 27 juin 2014. L'éventuelle signature de ce document nous donne des espoirs de développement économique, d'entrainement des investissements, de création de nouveaux emplois et, respectivement, l'accroissement de collections dans le budget des assurances sociales d'Etat et l'augmentation du montant des pensions.

Article 12§3 - Development of the social security system

RESC 12§3 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 12§3 of the Charter on the ground that inadequate measures were taken to raise the system of social security to a higher level.

179. Additional information is to be provided in the next National Report.

RESC 12§3 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 12§3 of the Charter on the ground that it has not been established that measures were taken to raise the system of social security to a higher level.

180. Additional information is to be provided in the next National Report.

RESC 12§3 MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 12§3 of the Charter on the ground that efforts made to progressively raise the system of social security to a higher level are inadequate.

181. The representative of the Republic of Moldova provided the following information in writing:

La situation précaire économique dans la République de Moldova, le manque des ressources naturelles et la migration de travail importante continue à affecter les collections dans le budget des assurances sociales et, respectivement le montant de la pension minimale, qui est parfois au dessous du seuil de pauvreté.

En vertu de l'information du Ministère de l'Economie concernant la pauvreté en 2012 le seuil de pauvreté absolue est d'environ 1100 lei (2012), et le seuil de pauvreté extrême est de 620 lei. En 2012 le pourcent de la population affectée par la pauvreté est seulement de 0,8% (milieu rural).

En même temps, le Gouvernement est toujours préoccupé à identifier les sources financières et les modalités de remédier à la situation des plus pauvres catégories de population.

Annuellement le 1 avril on effectue l'indexation des pensions - 2011 – 7,8%, 2012 – 9,6%, 2013 - 6,75%, 2014 - 6,45%.

Si en 2011 la pension minimale en agriculture constitue 570,66 lei, et pour les autres bénéficiaires – 641 lei, à partir le 1 avril 2013 le montant minimum de la pension indexée constitue:

667,66 lei – pour les agriculteurs;

749,96 lei – pour les autres bénéficiaires;

Le 1 avril 2014 – la pension des agriculteurs constitue 710,72 lei, et pour les autres bénéficiaires - 789,33 lei.

Hors cela, à partir le 1 avril 2013 tous les mois on accorde un support financier d'Etat à certains bénéficiaires de pensions, dont le montant après l'indexation de 1 avril 2013 ne dépasse pas 1300 lei, en fonction de la catégorie de bénéficiaire:
1) bénéficiaires de la pension intégrale – 90 lei;
2) bénéficiaires des pensions incomplètes – 50 de lei;

En même temps les personnes qui ont un revenu bas ont le droit de solliciter l'octroi de l'aide social et de l'aide pour la période froide de l'année.

Au mois de juillet 2012 le Gouvernement a approuvé la Stratégie nationale de développement, dont l'objectif principal est l'accroissement économique et la lutte contre la pauvreté. Cette stratégie représente une vision de développement économique de long terme.
Conformément à la stratégie, la santé et la protection sociale sont parmi les domaines les plus importants pour le développement durable du pays. L'un des objectif est d'amplifier la couverture budgétaire pour la promotion des politiques appropriées dans ces secteurs, suite à un développement économique accéléré, y compris en utilisant effectivement l'assistance externe.

Le 7 mai 2014 le Gouvernement a également approuvé la Plan d'action pour les années 2014-2016 sur le soutien de la réintégration des citoyens revenus de l'étranger. Conformément à certaines études environ 60% de migrants ont l'intention de revenir dans le pays. Ceux-ci assez souvent disposent d'un bon potentiel économique et environ 30% d'eux ont manifesté l'intention d'investir dans l'économie du pays de manière indépendante ou en partenariat avec les autorités publiques.
Les objectifs clé du plan sont: consolidation des liens avec les citoyens de la RM à l'étranger; leur information correcte et permanente sur la situation sur le marché de travail et la médiatisation continue des opportunités de retour et d'embauche dans le pays, la mise en œuvre des actions qui contribueraient au développement d'un milieu favorable pour les affaires, initiation du procès de reconnaissance des qualifications et de habilites.

Au moi de juin l'Accord d'Association avec l'Union Européenne a été signé. La partie intégrante de cet accord est l'Accord de Libre Echange approfondi et complet. Conformément à certaines estimations la signature de l'Accord d'Association est prévue pour le 27 juin 2014. L'éventuelle signature de ce document nous donne des espoirs de développement économique, d'entrainement des investissements, de création de nouveaux emplois et, respectivement, l'accroissement de collections dans le budget des assurances sociales d'Etat et l'augmentation du montant des pensions.

Article 12§4 – Social security of persons moving between States
RESC 12§4 AUSTRIA

The Committee concludes that the situation in Austria is not in conformity with Article 12§4 of the Charter on the ground that

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.*

182. The representative from Austria stated that the situation has not changed since the last report. The payment of family allowances is subject to the child´s residence in Austria, without length of residence or employment requirements. She confirmed that at present there are no plans for stipulating the granting of family allowance to children living in their home countries in any bilateral agreement with a third country.
183. Furthermore, the representative of Austria mentioned the judgement of the European Court of Human Rights of 8th January 2013 in the case Efe vs. Austria (Application No. 9134/06), where the

Court explicitly accepted a system which is primarily designed to cater the needs of the resident population.

184. Several representatives observed that the conclusion of bilateral agreements depends on the willingness of two sides – if a country does not ask Austria to conclude such an agreement, it is not clear why it is considered that Austria does not respect Article 12§4. The ECSR should explain why it believes the agreements are necessary.

185. The representative from Luxembourg observed that discrimination arises from the unequal treatment of different nationalities in the same territory, but not beyond that territory.

186. The GC took note of the information that Austria provides family benefits to all children residing there, irrespective of length of residence and decided to await the next assessment of the ECSR.

RESC 12§4 BELGIUM

The Committeee concludes that the situation in Belgium is not in conformity with Article 12§4 of the Charter on the ground that

- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;*
- *the retention of accrued benefits is not guaranteed for nationals of all other States Parties***.**

First ground of non-conformity

187. The representative of Belgium said that the national report contained incorrect or incomplete information and subsequently provided a written contribution.

188. This contribution specified in particular that when a foreigner cannot obtain family allowances for children in any Belgian, foreign or international scheme, he/she may request guaranteed family benefits under the following alternative conditions:

- be a citizen (or have children who are citizens) of a country which has ratified the European Social Charter (Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia," the former Yugoslav Republic of Macedonia ", Republic of Moldova, Montenegro, Russia, Serbia, Turkey, Ukraine) and have a valid residence permit;

- or be recognised as a refugee or stateless person (or have children who are refugees or stateless persons),

- or be regularised on the basis of the law of 22 December 1999.

Regarding the 5-year residence requirement to be entitled to family allowances, it is applicable - under the scheme for salaried workers - to young beneficiaries (mainly students, apprentices, young jobseekers aged up to 25 years or up to 27 years, depending on the waiver). The 5-year residence requirement is applicable also under the system of guaranteed family benefits in respect of the child when he/she has no relationship with the applicant to the third degree, nor is the child of the spouse or former spouse of the applicant or the person with whom he/she declares form a de facto household. In all these cases exemptions are possible in respect of nationals of States which have ratified the Charter.

The granting of family benefits is subject to the condition of territoriality either under the scheme for salaried workers and the system of guaranteed family benefits. Exceptions are possible, particularly under bilateral agreements. The representative of Belgium confirmed that Belgium had not negotiated

bilateral agreements with all the States Parties. However, bilateral agreements had been reached with State Parties such as Albania (it regulates the exportability of pensions and benefits referred to but not family allowances), Bosnia and Herzegovina, Croatia, Montenegro, Serbia, "the Former Yugoslav Republic of Macedonia" and Turkey (agreements in the field of family allowances).

189. The GC noted that the finding of non-conformity was linked to incomplete or incorrect information in the report, encouraged the Government to provide all the necessary information in the next report and decided to wait for the next assessment by the ECSR.

Second ground of non-conformity

190. The representative of Belgium provided the following information in writing:

Il convient de souligner que depuis les conclusions du CEDS la situation a évolué sur ce point. En effet, il convient de relever qu'un accord bilatéral a été signé le 9 décembre 2013 avec l'Albanie et est en cours de ratification. Cette convention règle l'exportabilité des pensions et prestations visées mais pas les allocations familiales.

Par ailleurs, il est opportun de signaler que la question de la conservation des droits acquis a été abordée dans le cadre des négociations relatives à la conclusion d'accords d'association entre l'Union européenne et l'Ukraine en 2011, ainsi qu'entre l'Union européenne et la Géorgie et l'Arménie en 2013. La possibilité d'introduire une clause prévoyant l'exportation des pensions de vieillesse, de survie et d'invalidité ainsi que les pensions relatives aux accidents du travail et aux maladies professionnelles n'a finalement pas été retenue.

A propos de la condition de territorialité : (pour les allocations familiales)

a) Régime des salariés : l'article 52 des lois coordonnées précitées pose une condition de territorialité. Cette disposition prévoit en effet que les allocations familiales ne sont pas dues en faveur des enfants qui sont élevés ou suivent des cours hors du Royaume. Il existe plusieurs exceptions : application des règlements européens, conventions bilatérales (voir ci-après), dérogations accordées par le ministre des Affaires sociales ou le fonctionnaire délégué lorsque la situation est reconnue comme étant digne d'intérêt.

b) Dans le régime des prestations familiales garanties : l'article 2 impose comme condition que l'enfant réside en Belgique. Il existe également des exceptions sur la base des règlements européens et de dérogations ministérielles.

En ce qui concerne les conventions bilatérales : A titre de résumé, les Etats avec lesquels la Belgique a conclu un accord bilatéral concernant notamment les allocations familiales sont :

- l'Algérie;
- la Bosnie-Herzégovine, le Monténégro et la Serbie (l'ex-Yougoslavie);
- la Croatie;
- la Macédoine;
- le Maroc;
- la Tunisie;

- la Turquie.
- Saint-Marin

(Rem : hormis la convention avec la Croatie, ces conventions bilatérales ne s'appliquent qu'aux travailleurs (donc pas aux demandeurs visés à l'article 56sexies ou dans le régime des prestations familiales garanties)

Relevons qu'un nouvel accord est entré en vigueur avec le Montenegro, mais ç avec les nouvelles républiques de l'Ex-Yougoslavie, l'accord belgo-yougoslave continuait à s'appliquer en attendant l'entrée en vigueur de nouvelles conventions avec ces entités. En outre, la convention avec la Serbie devrait entrer en vigueur dans le courant de l'année 2014.

Le paiement des pensions belges à l'étranger

En cas de séjour à l'étranger, les règles suivantes s'appliquent au paiement des pensions. La règle la plus favorable à l'intéressé doit être appliquée.

Relevé des règles:

Règle	Condition de nationalité	*L'avantage*	Payable à l'étranger?
1	• Belges, apatrides, réfugiés ONU, étrangers privilégiés • ressortissants d'un autre Etat membre de l'EEE (Allemands, Autrichiens, Britanniques, Bulgares, Chypriotes grecs, Croatie, Danois, Espagnols, Estoniens, Finlandais, Français, Grecs, Hongrois, Irlandais, Islandais, Italiens, Lettons, Lituaniens, Luxembourgeois, Maltais, Néerlandais, Norvégiens, Polonais, Portugais, Roumains, Slovènes, Slovaques, Suédois, Tchèques et les habitants du Liechtenstein.) ; • ressortissants d'Algérie, Australie, Bosnie-Herzégovine, Canada, Chili, Congo (marine marchande), Corée du Sud, Etats-Unis d'Amérique, Inde, Japon, Kosovo, Macédoine, Maroc, Monténégro, Philippines, Tunisie, Turquie, Saint-Marin, Serbie, Suisse et Uruguay :	*Pension de retraite ou de survie*	Oui, partout dans le monde
2	Les veuves et veufs (indépendamment de leur nationalité) de • personnes ayant la nationalité d'un Etat membre de l'EEE. (Pour énumération : voir règle 1) ; • ressortissants d'Algérie, Bosnie-Herzégovine, Canada, Chili, Corée du Sud, Etats-Unis d'Amérique, Inde, Israel, Japon, Kosovo, Macédoine, Maroc, Monténégro, Tunisie, Turquie, Philippines, République Fédérale de Yougoslavie, Serbie, Suisse et Uruguay :	*Pension de survie*	Oui, partout dans le monde
3	Chypriotes turcs :	*Pension de retraite ou de survie*	Oui, en cas de résidence en Allemagne, Chypre, Danemark, Espagne, France, Grande-Bretagne, Grèce, Irlande, Islande, Italie, Luxembourg, Norvège, Pays-Bas, Portugal, Suède, Turquie.
4	indépendamment de la nationalité :	*pension de retraite ou de survie*	Oui, en cas de séjour légal dans un Etat membre de l'UE (sauf le Danemark)
5	indépendamment de la nationalité :	*pension de retraite ou de survie d'ouvrier mineur*	Oui, mais uniquement à 80 %

RESC 12§4 CYPRUS

The Committee concludes that the situation in Cyprus is not in conformity with Article 12§4 of the Charter on the grounds that

- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;*
- *the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.*

First ground of non-conformity

191. The representative from Cyprus stated that family allowances are subject to residence requirements, income and economic criteria. Regarding residence requirements, a family is entitled to the child benefit when it has its habitual residence in the territory under the effective control of the Republic of Cyprus for the last three years. This condition applies, regardless of nationality, to Cypriot nationals, EU nationals and third country nationals. Bilateral agreements concluded in the area of social security sofar cover applicable legislation and pensions. They are not related to the child benefit which is tax financed and not linked in any way to the social security system.

192. The GC took note of the information provided by the representative from Cyprus and decided to await the next assessment of the ECSR.

Second ground of non-conformity

193. The representative of Cyprus provided the following information in writing:

Right to maintenance of accruing rights

In the field of bilateral agreements, Cyprus gives priority to concluding bilateral agreements in the field of Social Security with countries from which there is movement of labour from and to Cyprus. This policy ensures that the limited human resources available to the Social Insurance Services (as a result of the economic crisis) are utilized efficiently in negotiating and applying bilateral agreements which will be mutually beneficial to the signing parties.

Within this framework, in 2012 Cyprus extended an invitation to Moldova for a delegation to visit Cyprus in order explore the possibility of signing an agreement in the field of Social Security. There was no response as yet from the Moldovan authorities.

To our knowledge, no Cypriots are working in the States parties mentioned in the conclusions. All available data shows that the percentage of nationals of these States Parties insured under the social insurance scheme is extremely low. Additionally, we did not receive any requests from these countries for concluding a bilateral agreement in the field of Social Security (with the exception of Moldova).

RESC 12§4 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 12§4 of the Charter on the ground that

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*

- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;*
- *the retention of accrued benefits is not guaranteed to nationals of all other States Parties;*
- *the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.*

First ground of non-conformity

194. Additional information is to be provided in the next National Report.

Second ground of non-conformity

195. The representative of Estonia stated that accordingly to the Estonian national law, Estonia treats everyone equally in terms of social security entitlement, including family benefits, regardless of nationality. Several EU association agreements with third countries include rules for social security coordination, namely in pension field. Under these agreements, the implementing decisions guaranteeing the export of pensions into the third countries are in the process of preparation. The countries concerned are the following (9): Algeria, Morocco, Tunisia, Israel, Albania, Montenegro, San Marino, Turkey and "the former Yugoslav Republic of Macedonia". In addition, similar provisions for social security are included in the EU association agreements with Serbia and Bosnia and Herzegovina. Estonia does not intend to conclude bilateral agreements with the countries with which the EU has concluded association agreements.
196. The representative of Estonia added that the government, in principle, is ready to conclude bilateral agreements but it requires reciprocal interest of both countries. Negotiations with Georgia are ongoing.
197. The GC took note of the information provided by the representative from Estonia and decided to await the next assessment of the ECSR.

Third and fourth grounds of non-conformity

198. The representative of Estonia provided the following information in writing:

On the basis of Estonian national law, Estonia treats everyone equally in terms of social security entitlement, including family benefits. Estonia does not differentiate on the basis of nationality. Therefore, equal treatment is guaranteed. Several EU association agreements with third countries include rules for social security coordination, namely in pension field. Under these agreements the implementing decisions guaranteeing the export of pensions into the third countries are in the process of preparation. The counties are following (9): Algeria, Morocco, Tunisia, Israel, Albania, Montenegro, San Marino, Turkey and "the former Yugoslav Republic of Macedonia". Therefore Estonia is going to start exporting pensions within the frames of the association agreements and we will make additional administrative agreements if necessary (for example, in the area of data exchange).
In addition, similar provisions for social security are included in the EU association agreements with Serbia and Bosnia and Herzegovina. For the implementation of the agreements EU has to conclude the previously mentioned process. Estonia does not plan to conclude bilateral agreements with the counties the EU has association agreements with.
It has to be stated separately that Estonia in principle is ready to conclude bilateral agreements, but it requires reciprocal interest of both countries.

Estonia is in the process of negotiating bilateral Agreements with Australia, United States of America, Georgia, the Republic of Belarus and the Republic of Azerbaijan.

RESC 12§4 FINLAND

The Committee concludes that the situation in Finland is not in conformity with Article 12§4 of the Charter on the ground that

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;*
- *it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;*
- *the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.*

First and second grounds of non-conformity

199. The representative of Finland pointed out that irrespective of nationality all persons residing in Finland are treated equally in regard to social security rights. As of 1 January 2014, equal treatment is guaranteed to third-country workers coming to Finland outside the EU/EEA countries. National social security legislation was amended due to the implementation of the Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (*Single Permit Directive*).

200. The representative of Finland recalled that the Finnish legislation retains the accrued benefits related to work. The earnings-related pensions are exported to all countries and irrespective of the nationality of the recipient. In a similar way, the accrued benefits from the employment accident insurance scheme are exported to all workers where ever they choose to reside. In addition, the pension scheme and the employment accident insurance scheme do not require a minimum insurance period. Thus the accumulation of insurance periods is not relevant.

201. Furthermore the representative of Finland confirmed that Finland has intention to continue the conclusion of bilateral agreements on social security. However, priority is given to countries where there is considerable mutual mobility of persons in order to secure their social security rights.

202. Answering a question, the representative of Finland specified that Finnish nationals lose their family benefits when they move abroad.

203. The GC took note of the information provided by the representative from Finland and decided to await the next assessment of the ECSR.

Third and Fourth grounds on non-conformity

204. The representative of Finland provided the following information in writing:

Right to retain accrued benefits

The work-related benefits, that is, employment pensions and benefits based on statutory accident insurance (insurance for employees against work-related accidents and illnesses) are exported outside the EU/EEA countries.

The exportation of employment pensions is provided in Chapter 8, Section 112 (1) and (2) of the Act on employment pensions (19.5.2006/395). Ch. 8, S. 112 reads:

The payment of pensions

(1) The pension is paid to retiree unless otherwise provided in this chapter of any other Act (30.12.2008/1097)
(2) […] The pension may also be paid to the retiree´s account abroad.

In the legislation on statutory accident insurance there are no limitations to exportation of benefits. Accordingly, the benefits are paid to the nationals of the State Parties to the 1961 Charter and the revised Charter.

Right to maintenance of accruing rights (Article 12.4b)

The periods of insurance have only a very limited significance in the Finnish social security legislation. The periods of insurance are relevant when it comes to the entitlement to a part-time pension which is a pension type combining partial pension with part-time working in Finland. Entitlement to part-time pension requires that a worker has been insured as an employee for 5 years during the last 15 years before the commencement of the part-time pension.

As to the maternity and paternity allowance it is required that the person has been insured under the Finnish Sickness Insurance Scheme uninterruptedly for six months preceding the estimated date of the birth of the child. The insurance is based on residence or employment in Finland.

Finland has an intention to continue the conclusion of bilateral agreements on social security. However, priority is given to countries where there is considerable mutual mobility of persons in order to secure their social security rights.

I would emphasize that concluding bilateral social security agreements has an element of ensuring social security rights to persons moving between the contracting parties, not the aspect of encouraging free movement of persons as within the European Union.

RESC 12§4 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 12§4 of the Charter on the grounds that

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.*

205. Additional information is to be provided in the next National Report.

RESC 12§4 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 12§4 of the Charter on the ground that the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

206. Additional information is to be provided in the next National Report.

RESC 12§4 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 12§4 of the Charter on the ground that

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties.*

First ground of non-conformity

207. The representative from Italy stated that foreign workers legally residing in Italy enjoy the same rights as the Italian citizens even in the absence of specific social security bilateral agreements provided that the legal requirements are met. Seniority and old age pensions are paid to all workers who have satisfied legal requirements, regardless of their citizenship. In order to be entitled to the social security measures such as disability pensions or social allowances, residence in Italy is required, regardless of the citizenship of the eligible person.

208. The representative from Italy furthermore highlighted that with regard to family benefits, the Law No. 153/1988 stated: “spouse, children and subjects related to foreign nationals who are not resident in the territory of the Republic are not included in the household under paragraph 6, unless their home country provides a reciprocal treatment to Italian citizens because of an international agreement on family benefits”. He also recalled that Italy was bound, as other EU member states, by EU Regulation No. 883/2004 on co-ordination of security systems and Regulation No. 987/2009 which lays down detailed provisions for the application of, among others, family benefits. In addition, according to the EU Regulation No. 1231/2010, also non-EU workers residing in Italy are entitled to family benefits, provided that they are subject to social security schemes of at least two EU member states. Non-EU workers from countries that have signed a bilateral agreement on social security with Italy are entitled to family benefits either for both their family members residing in Italy and for those residing in the country covered by the agreement. As regards non-EU workers from countries that are not bound by a bilateral agreement with Italy, family benefits can be granted only if the members of their families reside in Italy. Foreign workers with the status of political refugees recognised in Italy are entitled to family benefits for family members residing outside Italy.

209. The representative from Italy confirmed that the negotiation or conclusion of new bilateral agreements in the field of social security has not been possible due to the economic situation.

210. The GC took note of the information provided by the representative from Italy and decided to await the next assessment of the ECSR.

Second ground of non-conformity

211. Additional information is to be provided in the next National Report.

RESC 12§4 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 12§4 of the Charter on the ground that

- *entitlement to State social insurance pensions is subject to a residence requirement;*
- *the retention of accrued benefits related to work accidents, occupational disease, sickness or maternity is not guaranteed to nationals of all other States Parties;*
- *it has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.*

First ground of non-conformity

212. The representative of Lithuania confirmed that in order to be legible for state social insurance pensions it was necessary to have been a permanent resident of Lithuania, except when EU law or bilateral agreements are applied and to have the required minimum period of social insurance. A bilateral agreement was currently being negotiated with the Republic of Moldova. Community regulations applied to EU member states.

213. In reply to questions from the representatives of Turkey and the United Kingdom, the representative of Lithuania said that in 2012 (and hence outside the reference period) a new amendment to the law had been introduced under which persons having the required minimum period of social insurance in Lithuania (for example minimal required social insurance period for old age pension is 15 years) were entitled to a pension even if they left the country.

214. The GC took note of the information provided, encouraged the Government of Lithuania to contact the ECSR to clarify the situation and decided to wait for the ECSR's next assessment.

Second and third grouns of non-conformity

215. The representative of Lithuania provided the following information in writing:

Accrued benefits related to work accidents and occupational disease are paid to nationals of all other States Parties to their Lithuanian bank account even if they are moving to other country. Only if they move to other country declaring that they will stay there permanently the bilateral agreements are applied.

RESC 12§4 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 12§4 of the Charter on the ground that it is not established that equal treatment with regard to access to family allowances is guaranteed to nationals of all other States Parties.

216. The representative of Malta provided the following information in writing:

Legal notice 204/1999 entitled European Social Charter Order was published in January 1999 to extend the provisions of the Social Security Act to nationals of countries being party to the Europan Social Charter and who have their ordinary residence in Malta.

This L/N gives the legal vires to the Department of Social Security to treat nationals who are ordinary residents in Malta coming from a European Social Charter country, in the same manner as any other Maltese citizen.

Furthermore, Legal notice 243/2008 gives the right to any person with a refugee status to be also treated in the same manner as any other Maltese citizen.

Therefore the above mentioned L/Notices and the treatment of EU nationals confirm that Malta practices a policy where persons residing in Malta are entitled to Social Security benefits.

Furthermore, the following table shows the various social security benefits, social assistances and family benefits paid to foreigners coming from states non EU states and others.

Benefits Paid 2011 - 2013	Albania	Armenia	Azerbaijan	Bosnia & Herzegovina	Croatia	Georgia	Macedonia	Ukraine	Turkey
Child Allowance	8	3	3	7	4	5	1	37	17
Maternity Benefit	4	3		4	3	1	1	21	4
Marriage Grant				1				8	
Energy Benefit					1			1	
Supplementary All.			1					1	
Unempl/Sick. Benefit						8	1		6
Social/Unempl. Assist.				2				6	2
Retirement Pension				2	1		1		
Widows Pension			1						

RESC 12§4 NETHERLANDS

The Committee concludes that the situation in the Netherlands is not in conformity with Article 12§4 of the Charter on the grounds that the retention of accrued social security benefits (with the exception of old-age benefits) is not guaranteed to nationals of all other States Parties.

217. Additional information is to be provided in the next National Report.

RESC 12§4 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 12§4 of the Charter on the grounds that:

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;*
- *the length of residence required for the retention of accrued non-contributory old-age, invalidity and survivors' benefits is excessive;*
- *the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.*

218. The representative of Norway provided the following information in writing:

Reference is made to Norway's previous reports and comments.
The ECSR furthermore asks the following questions:

- Whether Norway was contacted by other States Parties to the Charter during the previous reporting period and declined to initiate negotiations concerning bilateral agreements.
- What justified declining the offers to initiate such negotiations.
- Whether Norway plans to conclude bilateral agreements with States Parties which will allow for the exportation of family benefits outside of the EEA.
- Whether Norway can justify in a convincing way the difference between the required 3 year period before a non-contributory old-age, invalidity or survivors' pension may be exported to countries with which Norway has concluded a bilateral agreement and the required 20 year period before such a pension may be exported to countries with which Norway has not concluded a bilateral agreement.

- Whether invalidity benefits and pensions relating to occupational accidents or diseases remain exportable at the full rate.

Response to the questions from the ECSR

1. Whether Norway was contacted by other States Parties to the Charter during the previous reporting period and declined to initiate negotiations concerning bilateral agreements. As far as we have been able to ascertain, Norway was last approached by another State Party, with an offer to initiate such negotiations, in 2007.

2. What justified declining the offers to initiate such negotiations. The offer to initiate negotiations on a revised bilateral agreement in 2007 was declined for the following reasons:

- Norway already had a bilateral agreement with the State Party in question.

- The State Party in question had at the time status as a potential candidate for EU membership. Such membership would, as a result of the EEA Agreement, render a bilateral agreement superfluous.

- Norway had shortly before accepted two other offers to start up negotiations (with states not Party to the Social Charter), in addition to being in the process of negotiating with other states. Such negotiations can be quite time-consuming, with the process often taking between 3 and 5 years, from the first contact until the agreement enters into force. Out of respect for the negotiating partners, it is therefore necessary to limit the number of ongoing processes, so that one is able to allocate the resources needed for each process.

3. Whether Norway plans to conclude bilateral agreements with States Parties which will allow for the exportation of family benefits outside of the EEA. No such plans exist at present.

4. Whether Norway can justify in a convincing way the difference between the required 3 year period before a non-contributory old-age, invalidity or survivors' pension may be exported to countries with which Norway has concluded a bilateral agreement and the required 20 year period before such a pension may be exported to countries with which Norway has not concluded a bilateral agreement.
For the Norwegian non-contributory pensions, which may be paid to persons who have *never* been occupationally active in Norway and who have *never* contributed to the Norwegian National Insurance Scheme, it takes 40 years of insurance with the National Insurance Scheme before one is entitled to a full pension.
The majority of countries around the world do not have non-contributory pension schemes, and amongst those who do, many will probably not allow these pensions to be exported at all to countries with which they have not concluded bilateral social security agreements.
The Norwegian National Insurance Scheme does, however, allow exportation of the non-contributory pensions, even to countries with which Norway has not concluded bilateral social security agreements, provided that the person in question has at least 20 years of insurance. 20 years would mean that the person has earned at least ½ of a full non-contributory pension in Norway.
However, in the context of bilateral agreements, as part of a larger *quid pro quo* solution,
Norway may offer the possibility of exportation of proportionally reduced non-contributory pensions (3/40) for persons who have at least 3 years of insurance with the Norwegian National Insurance Scheme.
5. Whether invalidity benefits and pensions relating to occupational accidents or diseases remain exportable at the full rate. Yes, invalidity benefits and pensions relating to occupational accidents or diseases remain exportable at the full rate.

RESC 12§4 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 12§4 of the Charter on the grounds that:

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.*

First ground of non-conformity

219. Additional information is to be provided in the next National Report.

Second ground of non-conformity

220. The representative from Portugal stated that the principle of equal treatment in access to family allowances is applied to nationals of other countries as long as they are legally resident in Portugal and no additional information can be added in this respect. Moreover, Portugal did not share the view of the ECSR that States Parties are obliged to ensure, through unilateral measures, the actual payment of family allowances to all children residing in their territory; the will of the two States Parties for having any kind of bilateral agreement is necessary.

221. The representative from Portugal further added that regarding the first four countries mentioned by the ECSR (Albania, Armenia, Georgia and Serbia), the number of persons concerned in Portugal is not significant (33, 81, 902 and 213 respectively). Portugal had bilateral contacts to start negotiations with the Russian Federation and Turkey for a bilateral agreement on social security.

222. The Governmental Committee took note of the information provided by the representative from Portugal and decided to await the next assessment of the ECSR.

RESC 12§4 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 12§4 of the Charter on the grounds that:

- *the retention of accrued benefits is not guaranteed to nationals of all other State Parties;*
- *the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.*

223. Additional information is to be provided in the next National Report.

RESC 12§4 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 12§4 of the Charter on the ground that

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;*
- *it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;*
- *it has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.*

First ground of non-conformity

224. The representative of Slovenia said that the government will consider the possibility of new bilateral agreements. Additional information will be sent in writing.

225. The GC took note of the information provided by the representative from Slovenia, invited the government to provide detailed information in its next report and decided to await the next assessment of the ECSR.

Second ground of non-conformity

226. The representative of Slovenia said that equal treatment in respect of social security rights was ensured to all migrants from the EU member states and to the nationals of the countries with which Slovenia concluded bilateral agreements on social insurance, namely all former republics of the Socialist Federal Republic of Yugoslavia from which the majority of migrant workers come. In 2013 an incentive to conclude an agreement with Turkey was adopted and negotiations with the Russian Federation were initiated. Agreements with other countries mentioned by the ECSR (Albania, Armenia and Georgia) are not planned as the migration from these countries is very limited or does not exist.

227. As regards family allowances, the representative of Slovenia informed that since 2006 any child residing (permanently or temporarily) in Slovenia is entitled to child benefit, regardless of her/his nationality). Child benefit is the only family allowance in Slovenia. In this context, the government of Slovenia considered that the situation was in conformity with Art. 12§4 of the Charter.

228. In response to a question from the representative of Luxembourg, the representative of Slovenia confirmed that children have the right to the allowance regardless of their place of residence, if the bilateral agreement was concluded.

229. The GC took note of the information provided by the representative from Slovenia; it congratulated the government for having launched new negotiations and decided to await the next assessment of the ECSR.

Third ans fourth grounds of non-conformity

230. Additional information is to be provided in the next National Report.

RESC 12§4 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 12§4 of the Charter on the grounds that it has not been established that:

- *the retention of accrued benefits is guaranteed to nationals of all other State Parties;*
- *the right to maintenance of accruing rights is guaranteed to nationals of all other State Parties.*

231. The representative of Slovak Republic provided the following information in writing:

The principle of accumulation and maintenance of periods and benefits is, for other EU member states, cover by EU legislation. For countries which are not EU member states, these principles are covered by bilateral agreements. The Slovak Republic currently has bilateral agreements with the fol-

lowing Council of Europe member states which are not EU members or are not members of the European Economic Area:
- Russian Federation;
- Serbia;
- Ukrajine;
- Turkey;
- Bosnia and Herzegovina (covered by a bilateral agreement with countries of the former Yugoslavia);
- Montenegro (covered by a bilateral agreement with countries of the former Yugoslavia);
- Former Yugoslav Republic of Macedonia (covered by a bilateral agreement with countries of the former Yugoslavia);

The Slovak Republic is currently undergoing negotiations in order to prepare a new bilateral agreement with the following Council of Europe member states:
- The Former Yugoslav Republic of Macedonia;
- Montenegro;
- Russian Federation.

The Slovak Republic is expecting to start negotiations with other countries as well. It has to be stated that the Slovak Republic is open to start negotiations with any other country wishing to have a bilateral agreement on social security with the Slovak Republic.

Article 13 – RIGHT TO SOCIAL AND MEDICAL ASSISTANCE
Article 13§1 - Adequate assistance for every person in need

RESC 13§1 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 13§1 of the Charter on the grounds that
- *the level of social assistance paid to a single person without resources is manifestly inadequate and*
- *it has not been established that elderly people without resources receive adequate social assistance.*

First ground of non-conformity

232. No information provided

Second ground of non-conformity

233. Additional information is to be provided in the next National Report.

RESC 13§1 AUSTRIA

The Committee concludes that the situation in Austria is not in conformity with Article 13§1 of the Charter on the ground that the granting of social assistance benefits to foreign nationals of other

States Parties, other than EU and EEA nationals, legally residing in Austria, is subject to an excessive length of residence condition.

234. The representative from Austria stated that the means-tested minimum income scheme, which was challenged by the ECSR, was amended in 2010 through an agreement under Article 15 (a) of the Federal Constitutional Act between the federal government and the 9 Austrian Länder. Since 2010, a uniform minimum standard applies nationwide but the Länder may grant additional or higher benefits.
235. The representative from Austria further observed that four Länder (Tyrol, Vorarlberg, Carinthia and Styria) have adopted legal regulations that presumably are consistent with the case law of the ECSR, but the case law has apparently changed in 2013. According to the statutes of five other Länder, the entitlement to the benefit is linked to the right to permanent residence in Austria, meaning that in principle a five-year residence period is required. However, third-country citizens may receive support while not yet having full equality with Austrian citizens. In all Länder the hardship clause applies according to which benefits may be provided to foreign citizens within the framework of the private sector management of the Länder, where such aid appears warranted, in order to avoid any social hardship caused by the personal, family or economic situation of such individuals. This system provides adequate support to everyone not having adequate funds.

236. In addition, the representative from Austria indicated that the introduction of the means-tested minimum income during the economic crisis has resulted in numerous improvements and enhanced benefits for certain groups, such as single parents. However, due to the budgetary situation, it is not foreseeable yet if there will be statutory changes in the near future as regards social assistance benefits to foreign nationals of other States Parties.

237. The representative from Lithuania declared that she disagreed with the position of the ECSR as regards the length of residence condition for entitlement to social assistance benefits, namely that the obligation to provide assistance arises as soon as person is in need. Following the discussion on whether the case law of the ECSR is evolving in this matter, the GC decided to submit this point at the meeting with the ECSR, subject to the time available.

238. The Governmental Committee took note of the information provided by the representative from Austria and of differences in treatment between individual Länder and decided to await the next assessment of the ECSR.

RESC 13§1 BELGIUM

The Committee concludes that the situation in Belgium is not in conformity with Article 13§1 of the Charter on the ground that the guaranteed income for the elderly (GRAPA) is not granted to foreigners without resources unless they are covered by EU law or are nationals of States which have concluded reciprocity agreements with Belgium.

239. The representative of Belgium said that the situation had changed since the ECSR's last assessment as Article 3 of the Law of 8 December 2013 amending the Law of 22 March 2001 on the guaranteed income for the elderly provided that nationals of the States Parties to the European Social Charter were entitled to payment of a GRAPA under certain legal and regulatory conditions. A Royal Decree should be introduced to set the date on which this provision would come into force. To date, the new Government, which had taken office on 11 October 2014, had not expressed any opinion on the subject.

240. The Governmental Committee thanked Belgium for its efforts to bring the situation into line with Article 13§1 of the Charter and decided to wait for the ECSR's next assessment.

RESC 13§1 BULGARIA

The Committee concludes that the situation in Bulgaria is not in conformity with Article 13§1 of the Charter on the grounds that

- *people registered with the Employment Office Directorates are not entitled to social assistance before a minimum period of six months;*
- *the level of social assistance is manifestly inadequate.*

First ground of non-conformity:

241. The representative of Bulgaria provided the following information in writing:

In response to the Committee's question as to what forms of assistance apply to a person without resources, registered with the employment service, before being entitled to file a claim for social assistance, the report indicates that the period of compulsory registration with the employment office has been reduced from 9 to 6 months. As there is nothing to indicate that assistance is available to a person with resources within the first six months after registration with the employment service, the Committee holds that the impossibility to get social assistance before the expiry of a six-months period after registering with the employment office is not in conformity with Article 13§1.

Position:

In 2011, an amendment was made in the Rules for Implementation of the Social Assistance Act. It planned a reduction in the period for compulsory registration in the Labour Offices for unemployed people of working age who are eligible for monthly social assistance from 9 to 6 months. This change was a strong protective measure in a crisis and a condition for better coordination with the policies of the labour market.
The requirement for the existence of such registration is also in the context of the main priority of the European policy for social inclusion. It is an efficient mechanism for limiting the risks of establishing dependence of unemployed persons on social assistance and their departure from the labour market and loss of work motivation and activity. In the conclusion of the ECSR, the following important circumstances in the context of the provision of Art. 13, para. 1 were not considered adequately:

- According to the Social Security Code, the minimum period for receipt of unemployment benefits is four months, i.e. for the period, the person is granted funds under a "social security scheme". Moreover, in case of reasonable grounds for support, the Social Assistance Act and its Rules for Implementation provide for a one-time assistance up to five times the GMI. Thus, in practice, the six-month regular registration at the Labour Office does not mean that within this period, the person is limited in their right to receive social support from the state.
- According to the regulations, individuals and families are subject to support. Thus, the lack of the specified minimum period of six months for regular registration of the unemployed person does not deprive their family of monthly social assistance during this period, if the statutory conditions and requirements are met. It is possible to grant an additional one-time assistance.

An important priority in the policy pursued by us is to provide more favourable conditions and opportunities for the unemployed who are on social assistance to enhance their suitability for the labour market and to return to it as quickly as possible. This is achieved by improving coordination and interaction with the Employment Agency in relation to the implementation of various programs for education, qualification, etc.

Second ground of non-conformity

The representative from Bulgaria said that the efforts of the Bulgarian government were aimed at stabilizing and increasing the basic income of people (pensions, salaries, etc.) and limitation of the risks

of placing people in permanent dependence on the social assistance system. During the reference period, several important measures focused on increasing the level of social assistance were implemented, in particular:

- as of 1 January 2009, the amount of GMI was increased to 65 BGN (Decree of the Council of Ministers № 6/15.01.2009 determining the new monthly amount of the guaranteed minimum income);
- access to monthly and targeted benefits for heating for persons who have sold residential, cottage, agricultural or forest property and / or parts thereof over the past 5 years was facilitated by providing for a maximum amount of income generated by these transactions;
- the income limit for receipt of monthly targeted benefit to pay a rent in a municipal housing was increased from 150 to 250 percent of the differentiated minimum income;
- full compensation was guaranteed for the increase in the price of electricity by increasing the amount of the benefit.

She pointed out that the subsequent governments continued this policy.

The Governmental Committee took note of the information provided by the representative from Bulgaria. In particular, it noted that additional benefits have increased in Bulgaria and considered that the situation was moving in a good direction. It decided to await the next assessment of the ECSR.

RESC 13§1 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 13§1 of the Charter on the ground that the amount of social assistance granted to a single person without resources is inadequate.

242. The representative of Estonia said that people who have no income receive a basic benefit and assistance to housing costs. This assistance is provided regardless of the age of the person in need. The benefit level is established each year by Parliament. In 2014, the rate was increased by 17%. She then pointed out that people with dependent children may receive additional aid, of which the level has increased dramatically.

243.

244. The Governmental Committee noted that the analysis of the CEDS is about the amount of social assistance granted to a single person without resources, took note of the efforts made by Estonia and decided to await the next assessment of the ECSR.

RESC 13§1 FINLAND

The Committee concludes that the situation in Finland is not in conformity with Article 13§1 of the Charter on the ground that the granting of social assistance benefits to foreign nationals from certain States Parties to the Charter, legally residing in Finland, is subject to an excessive length of residence condition.

245. The representative of Finland said that foreign nationals have the same rights to social assistance benefits, irrespective of the length of residence. If a foreign national obtained a permanent residence permit or a residence permit limited in duration, he/she was immediately eligible for the grant of social assistance.

246. The representative of Finland said that social assistance was a last resort assistance – after other solutions / benefits were used up (unemployment benefits, etc.). She thought that the ECSR conclusion of non-conformity was related to an inaccurate information in the report.

247. The Governmental Committee took note of the information provided and requested Finland to include all the necessary details in the report for the next assessment of the ECSR.

RESC 13§1 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 13§1 of the Charter on the grounds that

- *young persons in need aged under 25 are not all entitled to social assistance;*
- *it has not been established that the level of social assistance is adequate;*
- *grant of the RSA for foreign nationals with a temporary residence permit, unless EU nationals, is subject to five years of residence on French territory.*

First ground of non-conformity

248. The representative of France pointed out that the situation in France had been considered not to be in conformity with Article 13§1 on this ground since 2000. She stressed that France had been making steady progress in this area: since 1 September 2010, young working people between the ages of 18 and 25 had been entitled to the active solidarity income (RSA), which amounted to €500 per month, provided that they had been in work for the equivalent of two years full-time over a reference period of three years preceding the claim.

249. The representative of France also pointed out that France had always opted to favour access to training and employment, particularly for young people. A new measure known as the Youth Guarantee, stemming from the Multi-Year Plan to Combat Poverty and Promote Social Inclusion, had been operational since the second half of 2013 in ten pilot regions in France and the main aim would be to encourage young people in extremely vulnerable situations to establish themselves in the world of work. This measure covered 10 000 people between the ages of 18 and 25 in 2014. It consisted of a guarantee of one year's work experience and a guaranteed income and was assigned to the network of local agencies, working in partnership with other operators likely to be able to respond appropriately to young people's needs. This measure was the follow-up to the recommendation of the European Council of 22 April 2013 on establishing a Youth Guarantee. France's operational programme entitled "An initiative for Youth Employment" had been validated by the European Commission on 3 June 2014.

250. The Governmental Committee noted the information provided by France and decided to wait for the ECSR's next assessment.

Second ground of non-conformity

251. The representative of France pointed out that the situation in France had been considered not to be in conformity with Article 13§1 on this ground since 2009. There had been no change in the situation: non-EU nationals were required to have lived in France stably, effectively and permanently and have held a residence permit entitling them to work for at least five years. The rule imposing a five-year residence requirement stemmed from a desire to be consistent with France's obligations, particularly those deriving from Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

252. Following a reminder from the Chair and in view of the fact that the situation was unchanged, the representative from the ETUC proposed that the warning that had been adopted in 2009 should continue to apply.

253. The Governmental Committee declared that the warning, which had been adopted in 2009 on this ground, still applied, and decided to wait for the ECSR's next assessment.

RESC 13§1 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 13§1 of the Charter on the grounds that:

- *it is not established that adequate assistance is available to any person in need;*
- *the level of social assistance paid to a single person without resources, including the elderly, is manifestly inadequate.*

First ground of non-conformity

254. The representative of Hungary provided the following information in writing:

The system of means-tested benefits in Hungary is complex. The means-tested benefits can be divided into three principal groups: the income replacement benefits, the income supplementary benefits and those allowances than can be available in crisis situation. The income replacement benefits and certain expenditure compensating benefits are available only for those, who live under an income threshold determined by law. Generally the beneficiaries of income replacement benefits can be entitled to various income supplementary benefits provided on monthly basis.

The benefit for people in active age and the old-age allowance (provided for people above retirement age) are considered as income replacement benefits.

Besides the income replacement benefits, the indigent persons can receive home maintenance support and debt reduction support to finance the costs of housing. The entitlement to home maintenance support is stipulated for one year, but the entitlement can be stipulated again, if the eligibility criteria still stand. The amount of the home maintenance support depends on the income of the beneficiary and the size of the habitation. The minimum amount of the support is 2500 HUF per month. In 2012 the average amount of the support was 44 495 HUF/ year/capita.

The debt reduction support can be provided during the period of debt management service as a lump-sum payment or as a monthly payment according to the decision of the beneficiary. Basically the duration of the debt management service is up to 18 months, but in special cases it can reach the period of 60 months. The maximum amount of the debt reduction support is 75% of the debt managed by the debt management service, maximum 300 000 HUF, or in special cases 600 000 HUF.

The public health care card system is a contribution for persons in social need, in order to reduce the costs of preserving and bettering their health status. The entitlement period of the benefit is one or two year long, but it can be extended if the eligibility criteria still stand.

Pursuant to the data of the National Health Insurance Fund, the average monthly amount of the provision was 5 375 HUF in 2013.

As an allowance available in crisis situation, local allowance is provided to those, who are in exceptional life status that threatens their existence or struggling temporarily or permanently with troubles of existence.

The local allowance was introduced from the 1 January 2014 after the fusion of three previous benefits (temporary allowance, funeral allowance, extraordinary child protection benefit). According to the data of the Hungarian Central Statistical Office in 2012 the average amount of temporary allowance was 11 482 HUF/year/capita.

Information regarding nationals of State Parties of the Revised European Social Charter can be found in responses to 14§1.

Second ground of non-conformity

255. The representative of Hungary provided information on means-tested benefits, which could be divided into three principal groups: income replacement benefits, income supplementary benefits and allowances available in crisis situations. Certain income replacement and income supplementary benefits were available only for persons living under an income threshold determined by law. Eligibility criteria regarding income and property ensured that benefits were available only for those who did not possess the financial means necessary to satisfy their basic needs. Income replacement benefits, such as employment substituting support and regular social allowance, were provided in certain conditions for persons of an active age (over 18 and under retirement age) in order to ensure a minimum standard of living. An old age allowance was provided for persons having reached the pension age limit whose monthly income did not guarantee their subsistence. A nursing fee was paid to persons, under certain conditions, who provided long-term care for family members.

256. The representative of Hungary also provided information on income supplementary benefits which mainly aimed to help bear the costs of housing and health. These included home maintenance support (the minimum in 2013 was 2500 HUF per month) and debt reduction support in the context of a debt management service, subject to certain eligibility criteria. Persons in social need could, in some circumstances, also be eligible to a public health care card and a certificate for health services. Explanations were also provided concerning a local allowance provided to persons in certain crisis situations. Other provisions under the Social Act, enabled the representative body of local government to either supplement the benefits falling under its competence or establish new forms of benefits for people in social need.

257. The Chair underlined the importance for the government to provide information which clearly answered the situation of non-conformity raised by the ECSR.

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

RESC 13§1 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 13§1 of the Charter on the ground that it is not established that foreign nationals without resources, legally residing in Ireland, have adequate access to healthcare.

259. The representative of Ireland provided the following information in writing:

Note please that regional health boards no longer exist – all references to same in legislation is now taken to refer to the local health manager.

As has been acknowledged above by the Committee the Health Service Executive (HSE) makes determinations on an individual's eligibility for health services on the basis of the person being 'ordinarily resident' in Ireland. The condition of being ordinarily resident differs to the habitual residence condition applied in respect of social services. A non-EU national should be regarded as "ordinarily resident" in Ireland if he/she satisfies the HSE that it is his/her intention to remain in Ireland for a minimum period of one year. Examples of the evidence which may be sought in this context include:

- proof of property purchase or rental, including evidence that the property in question is the applicant's principal residence;
- evidence of transfer of funds, bank accounts, pensions;
- work permits or visas, statements from employers etc.

Non-residents from other member states within the EU/EEA area are entitled to necessary healthcare in line with the EU Regulations where they satisfy the criteria that they are not insured in Ireland and are on temporary stay. This cohort is provided with healthcare which permits the person to continue their stay in Ireland or else until the person is well enough to return home. The treatment does not extend to non-urgent or elective treatment which can reasonably be postponed until they return to their own member state. Entitlement is granted by having a valid EHIC issued by another member state and although not resident here they are granted full eligibility. Hence the Health Service Executive (HSE) does not have to exercise its power in granting entitlement once it is determined by a medical practitioner that care is necessary.

Any other person lawfully present and not ordinarily resident are granted healthcare at the discretion of the local health manager (for an individual service when s/he considers this to be justified on hardship grounds) under section 45[7] of the Health Act 1970, to allow them to continue their stay in Ireland or else until the person is well enough to return home. The treatment does not extend to non-urgent or elective treatment which can reasonably be postponed until they return to their own country.

Those persons seeking asylum or who are resident in a direct provision centre are given medical cards for the period during which their application for refugee status is being considered. If given refugee status, then the person is regarded as ordinarily resident and will come under the usual rules for entitlement to health services.

At an operational level, the provision of emergency medical care is through the utilisation of a "Generic Medical Card" which provides access to a GP and prescribed medications in emergency situations. Most of the emergency accommodation hostels/ facilities would have a Generic Medical Card. In addition, there are dedicated outreach G.P/ nursing services in the major cities, which have the capacity to respond to emergency medical care situations regardless of the status of those presenting. (see next section re paragraph 4 for emergency hospital care)

No data exists as to the number of cases where medical assistance has been refused on the basis of a failure to satisfy the requirement to be ordinarily resident.

Social Assistance Payments –	**Weekly Rates €**	**Weekly Rates €**	**Weekly Rates €**	**Weekly Rates €**	**Decrease**
Jobseeker's Allowance Disability Allowance Farm Assist Supplementary Welfare Allowance	**2011**	**2012**	**2013**	**2014**	**%**
Personal Rate	188.00	188.00	188.00	188.00	0%

Increase for qualified adult	124.80	124.80	124.80	124.80	0%
State Pension (Non-Contributory)	**2011**	**2012**	**2013**	**2014**	**%**
Personal Rate	219.00	219.00	219.00	219.00	0%
Increase for qualified adult	144.70	144.70	144.70	144.70	0%
Blind Person's Pension:	**2011**	**2012**	**2013**	**2014**	**%**
Personal Rate	188.00	188.00	188.00	188.00	0%
Increase for qualified adult	124.80	124.80	124.80	124.80	0%
Widow(er)'s (Non-Contributory) Pension, and One Parent Family Payment	**2011**	**2012**	**2013**	**2014**	**%**
Personal Rate	188.00	188.00	188.00	188.00	0%
Guardian's Payment(Non-contributory)	**2011**	**2012**	**2013**	**2014**	**%**
	161.00	161.00	161.00	161.00	0%
Carer's Allowance:	**2011**	**2012**	**2013**	**2014**	**%**
One Caree	204.00	204.00	204.00	204.00	0%
More than one Caree	306.00	306.00	306.00	306.00	0%
Respite Care Grant (Per Caree) annually	1700.00	1700.00	1375.00	1375.00	-19%

RESC 13§1 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 13§1 of the Charter on the grounds that it has not been established that

- *social assistance is not provided for everybody in need;*
- *the level of assistance is inadequate;*
- *it has not been established that medical assistance is provided for everybody in need.*

First and third grpunds of non-conformity

260. Additional information is to be provided in the next National Report.

Second ground of non conformity

261. The representative of Italy clarified the institutional structure, explaining that the reform of Title V of the Constitution, launched in 2000, assigned legislative competence to the regions and administration of social policies to the municipalities. The State determined the basic level of benefits relating to civil and social rights guaranteed throughout the national territory. Despite the economic downturn, Italy had guaranteed social policy measures and adequate services to respond to the needs of

socially excluded people and to prevent marginalisation. The main measures of social assistance were directed at individuals and families who did not have sufficient ressources to ensure the fulfillment of basic needs. A brief explanation was given concerning the four main areas of initiatives for social assistance which covered benefits payable by the national institute for social security, the elderly and poor persons; financial support through specific national laws; reductions of costs of services; and initiatives promoted by regions or bodies for social assistance services on behalf of municipalities. Some statistics were provided, which included the average monthly benefits in 2013 for disabled people unable to work (414 €), the integration to the minimum pension in 2014 (501.38 €) and the social benefit for certain categories of low income unmarried persons in 2014 (447.61 € per month). A fourteenth paycheck provided for an additional amount in favour of low-income pensioners and a social increase allowance of 136.44 € per month existed, under certain conditions, to guarantee a minimum annual income to all pensioners. A range of other benefits included a purchase card for low income people, a maternity allowance, and a family bonus. Moreover, a new instrument had been launched on an experimental basis in 2013 called the "New Social Card" in 12 cities (Art 60 of Decree Law n° 5 of 2012). The experiment would progressively be extended to the entire national territory during 2014-2016, as part of a more general process to combat poverty and full information, including data, would be included in the next report.

262. The GC welcomed the new measures which had been introduced in favour of low income persons and decided to await the next assessment by the ECSR.

RESC 13§1 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 13§1 of the Charter on the following grounds:

- *the level of social assistance paid to a single person, including the elderly, is manifestly inadequate and;*
- *the granting of social assistance benefits to nationals of other States Parties is subject to an excessive length of residence requirement.*

First ground of non-conformity

263. The representative of Lithuania said that there had been positive developments as, taking into consideration the previous Conclusions of the ECSR, amendments to Laws regulating the provision of cash social assistance had been made which came into force on 1 January 2012, therefore not within the reporting period. The amount of social benefit for a single person, which was previously equal to 90 per cent of the difference between state support income and a person's income, had been increased to 100 per cent. In addition, the amount of compensated norms for heating, hot water and drinking water, had also been adjusted accordingly. Moreover, the compensated norm for living space of a single resident had been increased from 38 to 50 square metres.

264. The GC took note of the legislative amendments and decided to await the next assessment of the ECSR.

Second ground of non-conformity

265. The representative of Lithuania said that there were positive developments in 2012 which did not fall within the reporting period. The personal scope concerning social assistance was slightly broader. Aliens holding a long-term residency permit of the Republic of Lithuania for residency in the European Union were also entitled to social assistance. Moreover, aliens who had been granted subsidiary protection or temporary protection in Lithuania, with the exception of those who during the inte-

gration period received support from the funds designated for integration, were also entitled to social assistance. The personal scope had therefore become wider and was not limited to permanent residents. Furthermore, there was a reform of social assistance which gave municipalities more powers than before in allocating social assistance to those most in need who were legally resident.

266. In reply to the Chair, the representative of Lithuania said that personal scope had been broadened for entitlement to social assistance, although it did not extend to all lawful residents.

267. The representative of Belgium said that there appeared to be positive developments, including more powers of local authorities to assess situations, although further improvements could apparently be made.

268. The GC took note of the positive developments since 2012 and decided to await the next assessment of the ECSR.

RESC 13§1 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that social assistance is provided to everyone in need.

269. The representative of Malta provided the following information in writing:

The Maltese Social Securty system provides for two schemes namely the contributory and non-contributory scheme. Whereas the contributory scheme – sickness benefit, unemployment benefit, injury benefit, injury pension, retirement pension, widow pension, invalidity pension - is an insurance based scheme where qualification for all benefits depends on a contribution test, the non-contributory scheme – social assistance, medical assistance, carer's pension, social assistance carers and disability pensions – is a capital and income tested scheme and is therefore based on the financial situation of claimant and also on the outcome of a medical board. Unemployment assistance falls under the same conditions and claimant is registering for work under the Part I Register of the Employment & Training Corporation.

Therefore, the eligibility criteria for claimants falling under the non-contributory scheme are that they form a household on their own, satisfy the capital/incomes test and satisfy a medical panel review. The financial eligibily criteria for unemployment assistance claimants is the same but claimants must also be registering for work.

In the case of a beneficiary of unemployment assistance who is struck-off the work register for refusing employment, unemployment assistance is suspended but the other eligible members in his household have the right to apply for social assistance on their behalf and thus will continue to receive social assistance for the period comensurate with the strike-off duration. It is pertinent to point that persons registering for work have an employability profile and any referral for employment satisfies their employment profile.

Furthermore, persons in reciept of a non-contributory assistance automatically qualify for the maximum rate of child allowance where such a benefit is due or to the maximum rate of Supplementary Allowance if a child allowance is not in payment and to the energy benefit. Furthermore, persons with a low salary - up to the national minimum wage - also qualify for the maximum child allowance or supplementary allowance and to the energy benefit.

RESC 13§1 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 13§1 of the Charter on the grounds

- *that the level of social assistance paid to a single person without resources is adequate;*
- *that the level of social assistance paid to elderly people without resources is adequate and that people lacking resources are entitled to obtain, free of charge, the medical assistance required by their health condition.*

First ground of non-conformity

270. The representative of the Republic of Moldova said that, as mentioned in the report, since 2008 and the adoption of the law on social assistance, the poorest categories of people in the country could request assistance. In order to establish the amount of social assistance provided, household income was taken into account, which also included households composed of a single person. The minimum guaranteed income was 530 Lei in 2011 and 680 Lei in 2013. In addition, since January 2011, beneficiaries received supplementary cash assistance for winter, which was 130 Lei in 2011 and 250 Lei in 2013. Another development, following a governmental decision in March 2013 in the context of evaluating household income, was the reduction of the age, from 75 to 62 years, at which income related to agricultural activities was not taken into account. More recently, on 30 September 2014, the government decided to increase the amount of income which could be exempted for each wage earner of a household, including a single person household, to 200 Lei (instead of the previous 120 Lei). These measures had been carried out in spite of the difficult economic climate and recommendations by international financial institutions to limit state expenditure.

271. The representative of Belgium said efforts had clearly been made and it was necessary to take into account the difficult situation, particularly in the light of international recommendations.

272. The representative of Romania agreed with the representative of Belgium that it was a complex situation and said that there were signs that positive efforts had been made.

273. The GC took note of the positive developments and decided to await the next assessment of the ECSR.

274. Second ground of non-conformity

275. The representative of the Republic of Moldova said that, as a general rule, medical services were provided on a contributory basis through mandatory health insurance which represented a guaranteed system by the State to protect the interests of the population in the field of health. At the same time, for a range of vulnerable categories of the population, the government was obliged to provide medical cover. Medical assistance was therefore provided, for example, to retired persons and categories of the unemployed. Since 2011, categories of beneficiaries of social assistance had their health costs taken care of by the government. Moreover, to ensure coverage of persons with few resources, the government had, since 2010, introduced a reduction of 75 per cent of medical insurance premiums for persons with farmland and a 50 per cent reduction of the premium for those who bought medical insurance during the first three months of the year. Such measures had resulted in more low income persons being covered for medical care. There was also a list of medication for which reimbursement was offered at 70% to 100% for persons who were ill and subject to socio-economic difficulties.

276. The representative of the Republic of Moldova, in reply to the Chair, said that some of the information provided fell within the reference period. The report perhaps did not include reference to the coverage by the government of medical assistance to low-income persons.

277. The Chair recalled that it was important for the government to provide full information in the next report.

278. The GC took note of the information, encouraged the government to bring the situation into conformity with the Charter and decided to await the next assessment of the ECSR.

Third ground of non-conformity

279. The representative of the Republic of Moldova provided the following information in writing:

A Présent les services médicaux sont accordes a la base de la contribution au fond des assurances obligatoires d'assistance médicale (AOAM) qui représente un système garanti d'Etat de protection des intérêts de la population dans le domaine de la santé. Le système des assurances obligatoires de l'assistance médicale offre aux citoyens de la République de Moldova des possibilités égales en ce qui concerne l'assistance médicale opportune et qualitative.
Pour les catégories vulnérables suivante le Gouvernement a la qualité de l'assuré et comme suite l'assistance médicale est accordée aux:
- enceintes et femmes après accouchement**;**
- personnes aux handicapes sévères, accentués ou moyens;
- retraites;
- chômeurs enregistres aux agences territoriales de l'emploi;
- personnes soignant à domicile une personne à un handicap sévère qui nécessite des soins/surveillance permanente de l'appart d'une autre personne;
- mères avec 4 et plus enfants;
- personnes des familles défavorisées qui bénéficient de l'aide sociale conformément à la Loi n133-XVI du 13 juin 2008 sur l'aide social.
- étrangers bénéficiaires d'une forme de protection inclus dans un programme d'intégration, pendant le déroulement de celui-ci.

En vue d'assurer la protection financière et la couverture par l'assurance médicale obligatoire (AOAM) de la population des localités rurales, à partir 2010 on a établi la réduction de ***75 % du cout du police d' AOAM pour les propriétaires des terrains***. On a également établi ***50% de la valeur de la prime payée par ceux qui ont acheté le police d'assurance obligatoire de l'assistance médicale pendant les premiers trois mois de l'année.***

A partir 2011 les personnes non-assurées, y compris dans les localités rurales bénéficient d'assistance médicale urgente prehospitaliere et assistance médicale primaire, en volume établi dans le Programme Unique et les Normes méthodologiques, y compris la prescription des médicaments compensés en volume préscrit par les actes normatifs en vigueur, sans être conditionné le payement de ces services.

En cas de personnes non-assurées le volume et les conditions d'octroi des services médicaux au niveau d'assistance médicale urgente prehospitaliere et l'assistance médicale primaire, ainsi que l'assistance médicale spécialisée d'ambulatoire et hospitalière en cas de maladies socio-conditionnées avec impacte majeur sur la sante publique, sont couverts du compte des moyens des fonds des assurances obligatoires de l'assistance médicale conformément a la législation.

Le Paquet unique de services orienté vers la population socialement vulnérable a été étendu**.**

Les personnes des familles défavorisées qui bénéficient de l'aide sociale sont éligibles pour recevoir l'assurance médicale obligatoire totalement subventionne par le Gouvernement. Cette modification a contribué à l'orientation des subventions de l'Etat plus vers les personnes vulnerables.

En vue d'augmenter l'accès des personnes à l'assistance médicale et de créer des conditions plus favorables pour l'achat des polices d'assurance obligatoire d'assistance médicale, conformément à la Loi des fonds des assurances obligatoires de l'assistance médicale pour 2014, n 330 du 23.12.2013, les personnes ont la possibilité, jusqu'à la date de 17 avril 2014, à obtenir le police de l'assurance obligatoire de l'assistance médicale, en payant la prime d'assurance obligatoire de l'assistance médicale en montant forfait avec une réduction de 50 %.
En même temps si le sollicitant détient un terrain agricole, il peut obtenir le police d'assurance obligatoire de l'assistance médicale dans des conditions établies par la législation en vigueurs, en payant la prime d'assurance obligatoire de l'assistance médicale avec une réduction de 75%.

La Liste des médicaments compensés des fonds des assurances obligatoires de l'assistance médicale est réexaminée annuellement par le Conseil pour les Médicaments Compenses.

Pour la première fois au cours de derniers 10 ans en 2013 la Liste des Médicaments compensés a compris les médicaments prédestinés au traitement d'une série de maladie avec un impact majeur socio-économique: asthme (70% -100% compensation); épidermolyse bulleuse (100% compensation); Maladies auto-immunes et de système (100% compensation); maladies ophtalmologiques (glaucome) – 100% compensation; Myasthénie (100% compensation); Mucoviscidose (100 % compensation)*; m*aladies endocrines (70% compensation). Egalement pour la première fois la Liste des médicaments compensés a inclut l'insuline (100% compensation) pour le traitement des patients souffrant de diabète.

Le traitement compensé de 100% a été assuré pour les traitement et la prophylaxie des maladies des enfants de ***0-5 ans***, la prophylaxie et le traitement des anémies chez les femmes enceintes et la prophylaxie des malformations, le traitement du syndrome et de la maladie Parkinson, le traitement des maladies psychiques et de l'épilepsie, le traitement du diabète. Le traitement des maladies cardio-vasculaires et des maladies du système digestif est compensé en volume de 50%.
Il faut mentionner le fait que les médicaments psychotropes, anticonvulsives et antidiabétiques sont prescrits y compris aux personnes qui n'ont pas de police d'assurance.
Dans des conditions ambulatoires les patients sont assurés gratuitement avec des médicaments prévus dans les Programmes Nationaux achetés de manière centralisée par le Ministère de la Santé pour tuberculose, maladies psychiques endogènes, insuffisance chronique rénale, diabète, pathologies héréditaires, médicaments pour le service de cardiochirurgie.

RESC 13§1 MONTENEGRO

The Committee concludes that the situation in Montenegro is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance is manifestly inadequate.

280. The representative of Montenegro provided information on a new Law on Social Welfare and Child Protection which was adopted in June 2013 (Official Gazette 27/2013) with a view to harmonising the areas of social welfare and child protection with international standards as well as improving family allowances and social services. There were many related bylaws which appeared in written information provided. The law set out basic family benefits, which included a range of allowances and one-off financial assistance. Persons with no children who had no income or property but were capable of work were not entitled to family allowance but may exercise the right to one-off financial assistance. Information was also provided concerning the Decision for the adjustment of grounds for claiming family allowance and level of material benefits from social welfare and child protection, applicable as of 1 January 2014 (Official Gazette 6/14). Details were provided for a range of benefits, which included family allowance for an individual or a family without income on a monthly basis: eg, individual (64.00 €), two-member family (76.90 €) etc . The law provided for biannual adjustment of material

benefits from the area of social welfare and child protection. Families receiving family allowance may also be entitled to other material benefits. An individual who was a beneficiary of family allowance was a person unable to work or older than 67 years of age. Such a person was entitled, in addition to family allowance, to one-off financial assistance (150 to 300 €) several times per year as well as a number of allowances. In accordance with the Law on Local Self-Government, beneficiaries of family allowance may be entitled to housing support and there was a programme of subsidies available to vulnerable categories for electricity bills.

281. The Chair recalled the ground of non-conformity and asked whether a single person without resources could receive social assistance as the new legislation seemed to concern principally family allowances.

282. The representative for Montenegro said that there existed a lump-sum payment which could be made several times per year.

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

RESC 13§1 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance is inadequate.

284. The representative of Norway said the government did not deny that the level of the economic social aid benefit was relatively low but was of the opinion that it was sufficient to maintain a proper standard of living. It believed that the average monthly benefit to persons receiving social aid throughout the year was not an adequate measure of their actual income and resources. The ECSR assumed that all-year recipients of social assistance were largely dependent on social assistance alone and therefore gave the closest approximation to total monthly aid payments. The government rejected such a line of reasoning as many all-year recipients received social assistance as a supplement. Moreover, economic incentives to work were seen as important for everyone who was capable of working, so that work would be more beneficial than receiving social aid benefits. Norway had a decent unemployment benefit for people losing their job and a generous Daily Cash Benefit for workers who could not work due to illness or injuries. In addition, there was a disability pension for persons whose working capacity was permanently reduced due to illness, injuries or defects. These schemes were the most important source of income for anyone who, for various reasons, was not able to earn his/her income through ordinary work. Economic social aid was not considered as a long-term income for people who could not work but as a security net in difficult periods between jobs or while waiting for other income. The government regarded the benefit as sufficient to ensure a decent standard of living and considered that it was in conformity with Article 13§1 of the Charter.

285. In reply to a question by the Chair concerning the situation for the unemployed, the representative of Norway said that the unemployment rate was very low. She explained that unemployed people entered a qualification programme as an incentive to find work.

286. The Chair said that it would be important to explain the system in detail in the next report.

287. The representative of the United Kingdom recalled that the ECSR had addressed a general question to all states concerning the adequacy of benefits related to Articles 12.1 and 13.1. Information was to be provided in this context on social security top-ups over the basic minimum income level.

288. The GC took note of the information, encouraged the government to provide all relevant information in the next report and decided to await the next assessment of the ECSR.

RESC 13§1 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 13§1 of the Charter on grounds:

- *that the level of social assistance is manifestly inadequate, and*
- *that the granting of social assistance benefits to nationals of other States Parties, other than EU/EEA nationals, is subject to an excessive length of residence requirement.*

First ground of non-conformity

289. The representative of Portugal said that, as a general rule, social assistance was provided to persons who were not covered by a contributory scheme and beneficiaries were persons resident in Portugal with an income below a certain level. In the general system, all legal residents over 18 years of age and in a situation of socio-economic need may be granted a social integration income. However, under certain conditions, non-contributory benefits may be provided, such as non-contributory pensions. Social pensions may be paid to persons aged 65 years or older and to permanently disabled persons over the age of 18 and such beneficiaries may also be entitled to an extraordinary solidarity supplement. Some categories of residents not covered by a mandatory social protection system may be eligible for social allowances in the framework of maternity, paternity and adoption protection. Under certain conditions, unemployed persons not entitled to unemployment benefit may be entitled to assistance and measures were also in place for low-income pensioners.

290. The representative of Portugal underlined public expenditure restraints in the framework of the Memorandum of Understanding between EU, IMF and ECB. Nevertheless, additional measures had also been taken to reduce poverty and deprivation. These included the Personal Income Tax (IRS) exemption from social security benefits, an increase in 10% of the unemployment benefit for couples with dependent children, as well as the updating of the minimum amounts of rural and social pensions. Other measures included the creation of social tariffs in the transport sector as well as electricity and natural gas supply services, the creation of a Bank of Medicines for the most vulnerable categories of the population and strengthening of the Emergency Food Programme included in the Social Canteens Solidarity Network.

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

Second ground of non-conformity

292. The representative of Portugal said that there was no new additional information. Portugal required a length of prior residence with regard to social assistance benefits to nationals of other States Parties, who were non EU/EEA nationals. For example, in the case of the Social Integration Income, Portugal required at least three years of residence for eligibility. Social integration income was a cash benefit provided together with an integration contract. Its aim was to ensure that individuals and their family members had sufficient resources to cover their basic needs, while promoting their gradual social and professional integration.

293. The GC took note that the situation had not changed and decided to await the next assessment of the ECSR.

RESC 13§1 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that the level of social and medical assistance is adequate.

294. The representative of Romania provided the following information in writing:

Families and single persons with monthly net incomes up to the level of the minimum guaranteed income, benefit from a 15% increase of the amount of social support per family, if at least one family member provides proof of working under an individual employment contract, is a civil servant or performs an activity, making an income.

For the amounts of social support one of the full-aged persons fit for work from the beneficiary family has the obligation to monthly perform, at the request of the mayor, actions or works of local interest, but not to exceed the normal working time schedule and in compliance with the work safety and hygiene regulations.

The working time is calculated in proportion with the amount of the social support enjoyed by the family or single person, with an hourly fee adequate to the minimum gross wage per country, in accordance with the monthly average of working time.

The obligation to perform actions or works of local interest can be transferred to other family members, with the approval of the mayor, if the person nominated to perform the actions or the works of local interest is in temporary work incapacity or partially or totally lost the work capacity.

People of working age and fit to work, who do not have incomes from wages or from other activities, are taken into account in establishing the number of family members to determinate the level of income per family only it they prove the fact that they are registered at the territorial employment agency, for employment, and did not refuse a job or the participation in the employment stimulation and professional training services provided by these agencies.

An exception to this obligation is represented by the families for which the social support resulted from the calculation is up to 50 lei/month; for these families the working hours are established quarterly and must be performed in the first month of payment.

Also, are exempt from the obligation to monthly perform, at the request of the mayor, actions or works of local interest, the persons fit to work and are in one of the following situations:
a) provide care, according to the law, to one or more children aged up to 7 years old and up to 18 years old in the case of children with severe disabilities, proven by a certificate issued by the Commission for Child Protection;
b) provide care for one or more persons with severe disabilities or elderly dependents who do not benefit of a personal assistant or home healthcare, under the law;
c) participate in a professional training program;
d) are employed.

Among the reasons that may cause the suspension of the payment we mention:
- the social support holder did not filed, every 3 months, at the council hall, the statement regarding the family composition and the incomes of the family members, accompanied by a receipt on the incomes subject to income tax,
- persons of working age from the beneficiary families, who did not have incomes from wages or other activities, did not prove that they are registered at the territorial employment agency, for employment and refused a job,
- when none of the full-aged persons from the beneficiary family did not monthly performed, at the request of the mayor, actions or works of local interest;
- the territorial agency for social welfares has found, based on the documents submitted by the mayor, that there was established an incorrect amount of the social welfare or that, in a period of 3 consecutive months, were recorded returned money orders.

Among the reasons for ceasing the social welfare we mention:
- the applicant refused to provide necessary information for the elaboration of the social inquiry,
- during the social inquiry were found erroneous data declared regarding the family composition or family incomes,
- if the right to social welfare has been suspended, under the conditions listed above (related to performing actions or works of national interest, the statement and receipt on incomes, the proof that the persons who do not have incomes are registered at the employment agency for employment and did not refused a job) and, within 3 months from the suspension of payment, those obligations were not fulfilled.
- the beneficiaries did not fulfilled the conditions laid down by the law on family assets and incomes.

In the case of payment suspension of the beneficiaries, the right do not cease, it is only suspended for a limited period of time, namely, until the holder presents the proves which reinstate the beneficiary. Presenting the proves has the effect of resuming the payment of the rights starting with the following month..

Starting with 1 October 2009 the level of the social welfare for retired persons is of 350 lei. Take advantage of social welfare the retired persons from the public pensions system with the domicile in Romania, irrespective of the date of retirement, if the level of the pension's amount, due or paid, is situated under the level of the minimum guaranteed social pension.
The persons who do not meet the requirements to obtain a pension, benefit of social welfare.

The beneficiary of minimum guaranteed income automatically benefit of one of the additional granted benefits (social protection during the cold season). The levels for heating assistance are set out as to cover between 10 – 90% of the cost of heating a home. For thermal energy, 100% of the price of the Gcal is covered for the beneficiary.

According to the Social Assistance Law no. 292/2011, all the Romanian citizens on the Romanian territory, have the domicile or the residence in Romania, the citizens of member states of the European Union, of the European Economic Area and Swiss Confederation, and also the foreigners and stateless persons who have the domicile or residence in Romania have the right to social assistance, under the Romanian laws, as well as the European Union regulations and the agreements and treaties to which Romania is a party.

Regarding the guaranteed minimum income, beneficiaries are also families or single persons, citizens of other countries or stateless persons, who have the residence, or, by case, the domicile in Romania, under the conditions of the Romanian legislation.

Also, according to the Law no. 122/2006 regarding the asylum in Romania, during the asylum procedure the foreigner who apply for a form of protection has the right to benefit of social insurances, measures of social assistance and health insurances, necessary assistance for care, when does not have necessary assets, the amounts granted for food, accommodation and other expenses, to receive free primary care and adequate treatment, hospital care and medical care and also free medical assistance and treatment for severe or chronic diseases which are life-threatening, through the national system of emergency care and qualified first aid units.

RESC 13§1 SERBIA

The Committee concludes that the situation in Serbia is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance is manifestly inadequate.

295. The representative of Serbia said that amounts of social assistance benefits were inadequate and the government was aware of this. The situation had been caused by a serious recession and fi-

nancial incapacity of the state which had occurred over the last three years. In order to remedy the situation, important steps would be taken and preparations were underway for an overall reform of the social system. In line with that, several changes were going to be adopted which would directly contribute to increasing the minimum level of social assistance. The strategic document, the Employment and Social Policy Reform Paper, was due to be adopted by the end of January 2015. This document would foresee a more adequate coverage, an increased amount of benefits, especially for children, disabled people, elderly and people living alone. An income threshold would be set up to the level of the absolute poverty threshold. It meant that the country would in the future have an increased coverage and more adequate cash social assistance. Moreover, amendments to the Law on Social Protection were due to be adopted by the end of June 2015. The Government of the Republic of Serbia strongly believed that all these measures would contribute to decreasing the poverty rate in Serbia and detailed information would be provided in its next report concerning measures taken and the effects of such measures.

296. The GC took note that the government was aware of the situation and had drawn up a reform paper. In the meantime, it decided to await the next assessment of the ECSR.

RESC 13§1 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources is manifestly inadequate.

297. The representative of the Slovak Republic said that the benefits listed in the Conclusion of the ECSR were all paid from the system of state social assistance which was granted to persons who met the required criteria. Benefits such as the material need allowance, protection allowance, activation allowance, housing allowance and other benefits through state social assistance were aimed at persons in need. The correct calculation of the maximum amount of supplementary benefits for a single person was a total of 243.54 € (not 120.87 € as stated in the Conclusions), made up of material need allowance (61.60 €), activation allowance (63.07 €), housing allowance (55.80 €) and protection allowance (63.07 €). These were benefits belonging to the material need assistance class of benefits and were meant to be a temporary measure, although they were provided for the whole period of time that the unfavourable situation persisted. As these benefits were intended as a supplementary measure, they should not be evaluated as the main source of income. They constituted a supplement to the allowances paid from the system of social insurance, such as old age, disability, widow/widower pension, unemployment, sickness benefit, etc. The combined benefits represented a higher amount than that referred to by the ECSR. In conclusion, the allowances referred to by the ECSR had been increased and they only constituted a part of what was available to individuals to ensure than no person was left without assistance.

298. The GC took note of the increase in the amount of benefits, encouraged the government to provide full details in the next report and decided to await the next assessment of the ECSR.

RESC 13§1 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 13§1 of the Charter on the grounds that, during the reference period,

- *there was no legally established general assistance scheme that would ensure that everyone in need had an enforceable right to social assistance;*
- *foreign nationals of other States Parties, lawfully residing in Turkey, were entitled to social and medical assistance on an equal footing with Turkish nationals only under condition of reciprocity.*

299. The representative of Turkey provided the following information in writing:

Le Comité européen des droits sociaux (CEDS) conclut que la situation de notre pays n'est pas conforme à l'article 13§1 de la Charte au motif qu'il n'existe pas de droit individuel et subjectif à l'assistance sociale et médicale pour toutes les personnes sans ressources.
Nous présentons ci-dessous les informations sur les récents développements relatifs au motif de non-conformité et les informations exigées par le Comité .

1. La structure administrative de l'assistance sociale

Le ministre de la Famille et des Politiques sociales mène des activités de l'assistance sociale dans tout le pays dans le cadre de la loi no : 3294 sur la promotion de l'entraide et la solidarité sociale.

La Direction générale de l'assistance sociale qui relève du ministre de la Famille et des politiques sociales est chargée de l'assistance sociale dans tout le pays. Cette direction assure la mise en œuvre des activités de l'assistance en se servant des Fons de la promotion de l'entraide et de la solidarité sociale et par l'intermédiaire des Fondations de l'entraide et la solidarité sociale (SYD). Les fondations SYD ont été créées dans touts les départements et districts pour œuvrer dans le cadre du but de la loi no : 3294 sur la promotion de l'entraide et la solidarité sociale et fournir des prestations en nature et en espèce aux personnes dans le besoin. L'organe de décision des fondations est le comité d'administrateur de Fondation. Les fondations constituent un pont entre l'État et les ressortissants pauvres afin que les prestations soient abouties le plus direct et le plus rapide. Les fondations sont organisées sur la base de la personnalité morale du droit privé.

La Direction générale de l'assistance sociale est chargée de:

a) Lutter contre la pauvreté et élaborer les stratégies dans le domaine de l'aide sociale
b) Réduire la pauvreté et ses effets
c) Élaborer les critères objectifs d'attributions de l'aide sociale et créer la base centrale de données de l'assistance sociale
d) Administrer les prestations sociales basées sur les ressources publiques et faire le test de ressource de l'assurance maladie universelle.
e) Appliquer la loi no : 3294

2. Le champ d'application personnelle de l'assistance sociale

Le champ d'application personnelle de la loi no: 3294 sur la promotion de l'entraide et la solidarité sociale est déterminé dans son l'article intitulé ''champ d'application''; les personnes entrant dans le champ d'application sont indiquées ci-dessous :

- les personnes qui se trouvent dans la pauvreté et dans le besoin et qui ne sont pas affilés aux organismes de la sécurité sociale et qui n'en perçoit pas de prestations et de rentes,
- les personnes dont le montant de leur revenu par tête dans le ménage est inférieur au tiers du salaire minimum, bien qu'elles soient affilées aux organismes de la sécurité sociale et qui en perçoivent prestations et de rentes, mais
- les personnes qui pourraient rendre productive et utile a la société avec un petit aide temporaire ou avec l'éducation et enseignement

Par contre, pour pouvoir bénéficier des prestations de vieillesse et de handicapé, de l'allocation des veuves, des aides d'éducation et de santé sous condition, de l'allocation de soldat dans le besoin, qui sont servis dans le cadre de loi no: 2022, l'intéressé doit être chômeurs.

3. L'accès des étrangers a des prestations sociales

En vertu des articles 1et 2 de la loi no : 3294 sur la promotion de l'entraide et la solidarité sociale, les étrangers dans le besoin qui sont admis ou venus en Turquie de quelle manière que ce soit bénéficient des prestations servies par les fondations SYD.

Mais, pour bénéficier des prestations de vieillesse et de handicapé servies dans le cadre de la loi no : 2022, le demandeur doit être de nationalité turque.

4. Type de prestations d'assistance

Les types de prestations d'assistance servie en Turquie sont indiqués ci- dessous.

a) Les prestations familiales

Les prestations familiales comprennent les prestations suivantes: les aides d'alimentation, les aides de logement, les aides du charbon, les aides destinées aux femmes dont le conjoint est décédé, les aides destinées aux familles de soldat dans le besoin.

b) Les prestations d'éducation

Les prestations d'éducation comprennent les prestations suivantes : les aides du matériel éducatif, les prestations d'éducation sous conditions, les aides de déjeuner , des livres scolaires gratuits, l'aide de transport, d'abris et de subsistance pour les élèves, le transport gratuit des élèves handicapés et les aides d'enseignements supérieures.

c) Les prestations de santé

Les prestations de santé comprennent les prestations suivantes: les prestations de soins de santé, les prestations de santé sous condition, les prestations de besoins pour les handicapées, les aides pour la procréation assisté (bébé in vitro) et les aides pour le testent de revenu pour l'assurance de santé universelle.

d) Les prestations spéciales

Les prestations spéciales comprennent les restaurants publics et les prestations de situation urgente.

e) Les prestations assurées dans le cadre de la loi no: 2022

Les prestations fournies dans le cadre de la loi no: 2022 spéciales comprennent les prestations suivantes :

- l'allocation de vieillesse
- l'allocation de handicapé 40-69%
- l'allocation de handicapé 70 et +
- l'allocation de proche du handicapé moins de 18 ans
- l'allocation de maladie de silicose

Outre des prestations mentionnées ci-dessous, on fournit des aides forfaitaires aux personnes nécessiteuses pour répondre à leurs besoins temporaire et spécial.

4. les montants des prestations de base et des prestations complémentaires

Les montants standards des prestations de base et des prestations complémentaires sont indiqués ci-dessous.

a) Aides alimentaires

Le montant des aides alimentaires est déterminé par les Comités des directeurs des fondations.

b) Aides de logement

Selon le besoin, son montant peuvent s'élever jusqu'au 15. 000, 20.000 ou 25.000 LT.

c) Program de logement social

On construit des logements sociaux pour ceux qui en ont besoin. Le paiement de ces logements se fait par le remboursement mensuel. Le montant de remboursement mensuel, qui dure 270 mois est de 100 LT pour les logements 1+1 et 130 LT pour les logements 2+1.

d) Aides de charbon

Le montant des aides de charbon déterminé par les Comités des directeurs des fondations devrait être au moins de 500 kg.

d) Allocation aux femmes dont le conjoint est mort

Le montant de cette allocation est de 500 TL une fois par deux mois.

d) Allocation aux familles nécessiteuses de soldat

Le montant de cette allocation est de 500 TL une fois par deux mois.

e) Aides de matériel éducatif

Les aides de matériel éducatif sont déterminées par les Comités des directeurs des fondations.

f) Prestations d'éducation sous condition

Les montants mensuels des prestations de l'éducation sous condition sont indiqués ci-dessous :

Pour les élèves-filles de l'enseignement primaire : 35 LT.
Pour les élèves-garçons de l'enseignement primaire : 30 LT.
Pour les élèves-filles de l'enseignement secondaire : 45 LT.
Pour les élèves- garçons de l'enseignement secondaire : 550 LT.

g) Prestations de santé sous condition

Les montants des prestations de santé sous condition sont indiqués ci-dessous :

Pour les femmes qui ont accouché a l'hôpital : 70 LT pour une seule fois
Pendant la période de grosses : 30 LT par moi
Pour l'enfant : 30 LT

h) Prestation de vieillesse

Le montant des prestations de vieillesse est mensuellement de 141,56 LT et trimestriellement 424,68 LT.

i) Prestations de handicapé

Les montants des prestations de handicape sont indiqués ci-dessous :

Le montant de la prestation de handicap de 40-69 % est mensuellement de 283,13 LT et trimestriellement 849,39 LT.

Le montant de la prestation de handicap de 70 et + % est mensuellement de 424,69 LT et trimestriellement 1274,07 LT.

Le montant de la prestation de proche du handicapé moins de 18 ans est mensuellement de 283,13 LT et trimestriellement 849,39 LT.

l) Prestations de silicose

Les montants des prestations de silicose sont indiqués ci-dessous

Le montant de la prestation de silicose légère (15%-34%) est mensuellement 611,78 LT, trimestriellement 1. 835,34 LT.

Le montant de la prestation de silicose moyen (35%-54%) est mensuellement de 699,17 LT, trimestriellement 2. 097,51 LT.

Le montant de la prestation de silicose grave (55% et +) est mensuellement 779,08 LT, trimestriellement 2. 337,24 LT.

5. Le traitement de demande de prestations sociales de handicape

Il faut s'adresser à la fondation de l'entraide et de solidarité (SYD), qui se trouve dans le lieu où l'on réside. On constitue avec les numéros de l'identité nationale/étranger des demandeurs leurs dossiers sur le Système d'information intégré des services de prestations sociales. Les demandes de prestation adressées aux fondations SYD sont traitées par les comités d'administrateurs des fondations SYD conformément à la loi no: 3294 sur le base des données fournies par 14 établissements et des données obtenues par l'interrogation 28 services Web ainsi que par l'enquête sur place. Toutes les activités et opérations relatives aux prestations sociales faites par les fondations de l'entraide et de solidarité se réalisent sur le Système d'information intégré des services de prestations sociales. Ainsi ce système contient les statistiques sur le nombre des demandeurs, le nombre des dossiers acceptés et le montant total des prestations versées.

Pour le versement des prestations, on applique l'approche par le ménage. Lors de la détermination la situation d'un ménage, on prend en considération tous les revenus réguliers du ménage et calcule ensuite le revenu par tête. Dans ce cadre, la nature de prestation à accorder, leurs périodicités et leurs montants ainsi que les personnes auxquelles elles doivent accorder sont décidés par les comités d'administrateurs des fondations SYD. .

Dans le cadre de la loi no : 2022 régissant les prestations de vieillesse et de handicap, il s'agit également d'une évaluation basée sur le ménage. On considère l'intéressé comme nécessiteux si le reve-

nu par tête, calculé par la division du revenu total du ménage par le nombre des personnes vivantes dans le ménage, est inférieur à un tiers du revenu minimum.

Selon le règlement d'application de la loi no : 2022, la situation des personnes nécessiteuses se détermine, en prenant en compte les revenus, la fortune et les dépenses du ménage. Les revenus que l'on prend en compte sont indiqués ci-dessous :

- La moyenne mensuelle de l'addition du salaire moyen net déclaré/identifié avec la pension alimentaire et d'autres revenus
- 1\240 du prix courant des logements (évalué/déclaré) à l'exception de celui où le ménage habite et la somme de revenu de loyers (évalué/déclaré).
- 1\120 du prix courant des logements à l'exception de celui où le ménage habite pour lesquelles on n'obtient pas de revenu de loyer, ou on ne fait pas de déclaration du revenu.
- 1\240 du prix courant des magasins (évalué/déclaré) et la somme de revenu de loyers (évalué/déclaré).
- 1\120 du prix courant d'une boutique pour laquelle on n'obtient pas de revenu de loyer, ou on ne fait pas de déclaration du revenu
- 1\240 du prix courant de la terre, du champ, etc. la somme de leurs revenu (agricole, commerciale, foncière et, etc.) mensuel (évalué/déclaré)
- 1\120 du prix courant de la voiture privé du ménage
- 1\120 du prix courant de la voiture commerciale/agricole du ménage
- Le montant mensuel du revenu obtenu des bétails gros/menus que le ménage possède
- Le double montant du revenu d'intérêt mensuel des dépôts en banque déclaré/identifié du ménage,
- Le moyen mensuel des toutes prestations sociales en espèce, à l'exception des allocations de vieillesse et de handicap attribué en vertu de la loi no : 2022
- Le somme de pension alimentaire
- Le somme de revenu de soutien agricole
- Les revenus des personnes qui travaillent de telle manière à ce qu'elles soient tenues de se faire assurer selon les assurances sociales de longue durée
- La moyenne mensuelle d'autres revenus

D'autre part, les Comités des administrateurs des fondations prennent en considération d'autres facteurs lors de l'appréciation de l'état de nécessiteux tels que le nombre des personnes vivant dans le ménage, la situation de santé des personnes qui ne leur permette pas de travailler.

6. La suspension des prestations sociale

Les prestations sociales sont suspendues lorsque les conditions d'accès prévu par la législation ne sont plus remplies par les intéressés.

Alors que le fait d'être assuré constitue une raison de suspension des prestations régulière, cela n'est pas le cas pour les prestations à durée déterminée. Pour ces dernières, on prend encore en considération le critère de revenu du ménage.

Les prestations de vieillesse et de handicape attribuées en vertu de la loi no: 2022 sont temporairement suspendues dans le cas suivant:

a) les prestations des personnes qui transfèrent leur résidence dans la circonscription d'une autre fondation sont provisoirement suspendues,

b) les prestations des personnes qui ne remettent pas un nouveau certificat de santé a l'expiration de leur certificat précédent.

Les prestations de vieillesse et de handicape sont supprimées dans le cas suivant :

- Décès
- Renonciation
- Lorsque le handicapé devient plus de 18 ans pour les personnes qui perçoivent de l'allocation de proche du handicapé moins de 18 ans,
- Dans le cas où l'on constate que le soigné et le soignant n'habitent pas ensemble ou que bien qu'ils habitent ensemble, le soin effectif n'est pas assuré ou que l'allocation n'est pas utilisée pour le handicapé pour l'allocation de proche du handicapé moins de 18 ans
- La perte de la nationalité à l'initiative de l'État ou l'acquisition d'une autre nationalité sans conserver la nationalité turque
- Le fait de ne pas remettre un nouveau certificat de santé dans un an à partir de la date de l'expiration de leur certificat de santé à durée déterminée,
- Le fait de ne pas s'adresser dans un an à la fondation de leur nouveau lieu de résidence lorsque l'on transfère la résidence dans la circonscription d'une autre fondation,
- Le fait de ne pas retirer les prestations versées pendant un an,
- Le fait de pouvoir bénéficier de la pension alimentaire ou de pouvoir bénéficier d'un revenu égal ou supérieur au seuil de la situation nécessiteuse dans le ménage ou ne plus se trouver dans une situation nécessiteuse,
- Le fait de bénéficier une allocation ou une pension servie par les organismes de la sécurité sociale et le fait de travailler dans un emploi qui nécessite l'affiliation à des assurances sociales de longue durée
- Le fait d'être considéré comme assuré de l'assurance maladie universelle selon l'article 60, paragraphe 1, aliéna (g) de la loi no : 5510 du 31/5/2006 sur les assurances sociales et l'assurance de la santé universelle
- Le fait d'être continuellement entretenu ou fait entretenir dans les établissements publics et privé, y compris la dime et l'hébergement,
- Le fait d'être entretenu par les personnalités physiques et les personnalités morales en échange du transfert de leur bien et de leur revenu sur la base d'un contrat

Article 13§3 - Prevention, abolition or alleviation of need
RESC 13§3 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 13§3 of the Charter on the ground that it has not been established that services exist, offering advice and personal assistance to persons without adequate resources or at risk of becoming

300. Additional information is to be provided in the next National Report.

RESC 13§3 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 13§3 of the Charter on the ground that it has not been established that people without resources or at risk of becoming so have effective access to adequate services offering advice and personal assistance to prevent, remove or to alleviate personal or family want.

301. The representative of Romania provided the following information in writing:

Law no116/2002 and also the methodological regulations of application of this law, establish measures to support marginalized people in employment: professional counselling, mediation and employment of young people aged between 16-25 years old, through social customized assistance, provided by the specialized personnel of the National Agency for Employment.
The main tool that ensures social customized assistance for young people in need and at risk of professional exclusion is the solidarity contract signed between the young people falling the provisions of the Law no.116/2002 and the county employment agencies and the city of Bucharest. Through this type of contract, the agencies undertake to provide mediation and professional counselling services to young people, to identify employers and to inform them about the facilities granted by the law for youth employment for people at risk of professional exclusion.

In 2010, 1,005 people of the disadvantaged categories benefit of mediation and professional counselling, 943 solidarity contracts have been signed and **392** employers for insertion have been identified.

The 943 solidarity contracts have been signed with the following categories of beneficiaries:
- 126 young people from shelters and reception centres for children of the specialized public services and authorised private bodies in the field of child protection (13.4 %);
- 34 single young people with dependent children (3.6 %);
- 213 young family people with dependent children (22.6 %);
- 189 young family people without dependent children (20 %);
- 381 persons belonging to other groups of young people in need (40.4%).

In 2010, have been employed 825 marginalized people, of which: 646 people employed with individual labour contracts on limited period and 179 people employed with individual labour contract on indefinite period.
The 825 individual labour contract have been signed with the following categories of people:
- 80 young people from shelters and reception centres for children of the specialized public services and authorised private bodies in the field of child protection (9.7 %);
- 33 single young people with dependent children (4 %);
- 204 young family people with dependent children (24,7 %);
- 181 young family people without dependent children (21,9 %);
- 327 persons belonging to other groups of young people in need (39,6%).

Structuring on levels of training the 825 people who signed individual labour contracts under the Law no.116/2002, in 2010, is the following: 379 people have completed secondary school, unfinished or no education (45.9 %), 235 people have professional studies (28.5 %), 179 people have high school education (21.7%) and 32 people have university education (3.9 %).

The implementation of the Employment Programme for social marginalized people, had a direct impact on youth employment at risk of professional exclusion. In this regard, considering the number of people employed during 2010 (825 people), it is found that a number of 613 people were employed by providing mediation services which represents 74.30% of the total employed people, and a number of 212 people were employed by providing professional counselling services, which represents 25.70% of the total employed people.

The intervention of the National Agency for Employment, through its decentralized structures, represents preventive and reactive actions of the marginalisation risk. The data presented show that the agencies face difficulties in integrating marginalized people, one reason being that over 46% of those covered by solidarity contracts have secondary education, unfinished or even no education.

The national Employment Programme for social marginalized people is developed taking into account the need to mitigate the social effects of the economical restructuring, and also the persistence of the social marginalisation risk, for certain categories of persons who face difficulties in finding a job.

During 2010, local councils facilitated the access to housing of 5,751 single persons and 4,379 marginalized families. Related to the number of single marginalized persons and the number of marginalized families, the access to housing was granted only for 36.0% of single marginalized persons, that is 35.1% of the marginalized families. The amount spent in this purpose was of 34,324,233 lei, representing 43.0% of the amounts reported as required.

Of ensuring the access to public necessities services benefited 37,315 single persons and 32,108 marginalized families, spending the amount of 23,638,628 lei. Although the amounts allocated represented 67.5% of those required, in the number of beneficiaries the access was ensured to 92.6% of the single marginalized persons and to 82.8% of the marginalized families.

In the analysed period, 38,471 single persons and 34,817 marginalized families have benefited other various measures taken by the local councils to prevent and combat marginalization, the amounts spent being of 32,817,386 lei.
The total amount spent in 2010 for these measures reached 90,780,247 lei, representing, however, 59.8% of the estimated amounts to be necessary.

Law no.116/2002 provides that the access to health assistance for the people who have the right to minimum income guaranteed is confirmed by the local councils and is provided under the conditions of the law on health social insurances for people who are insured, without paying the contribution for health social insurances. Thus, in 2010, there was a number of 482,711 people insured of the families which were entitled to minimum income guaranteed. According to the reports, 165,293 of them benefited of medical assistance, representing 34.2% of the total.

Law no.116/2002 provides that persons of school age who come from families entitled to receive minimum income guaranteed and have two or more children enrolled in compulsory education required by the law, receive scholarships. During 2010, a number of 58,571 students of the marginalized families received scholarships, of a total amount of 29,999,379 lei.
Compulsory education graduates from the marginalized families, who continue their studies in the pre-university education units and in the high education units, benefit from scholarships to continue their studies. In 2010 were granted, in accordance with the provisions of the Law no.116/2002, scholarships for 61,327 scholars and 45 students, with the amount of 29,997,496 lei.

RESC 13§3 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 13§3 of the Charter on the ground that it is not established that everyone may receive by the competent services such advice and personal help as may be required to prevent, to remove or to alleviate personal or family want.

302. The representative of the Slovak Republic provided the following information in writing:

Ground of non-conformity:

The Committee takes note of this information but recalls that Article 13§3 concerns specifically services offering advice and personal assistance to persons without adequate resources or at risk of becoming so. It also notes that the report does not provide any reply to the questions repeatedly raised in previous conclusions (Conclusions XVIII-1 and XIX-2) on the amount of total spending on social services covered by Article 13§3, on whether services and institutions are adequately distributed on geographical basis and whether they are provided with sufficient means to provide assistance as necessary. It notes however from another source (Ministry of Labour, Social Affairs and Family website) that spending on social assistance was reported in 2008 to be particularly low, compared to the EU

average. In the absence of the information requested, the Committee does not find it established that everyone may receive by the competent services such advice and personal help as may be required to prevent, to remove or to alleviate personal or family want.

Social services in the Slovak Republic have been provided under Act No. 448/2008 Coll. on social services since 2009**.** Social services under the act are provided by means of professional attendant service and other activities that the provider is required to provide. Professional activities in the form of social advice and social rehabilitation can be provided also separately, under conditions laid down by the act. A provider may also perform activities beyond those governed by the act, so as to improve the quality of social service. Social services are services in the public interest and are provided without profit.

As of December 31, 2012 the Slovak Republic had 5 410 836 inhabitants, of which 38 263 (0.74%) were provided with social services in 1090 social services facilities established by a municipality, higher territorial units or non-public providers. Long-term-care social services were provided to 35 293 clients in 915 facilities (facilities for the elderly, social services homes, specialised facilities, day-care centres, assisted living facilities, rehabilitation centres, care service facilities).

In terms of the *establisher* of social services facilities, of the total number of social services facilities (1090) self-governing regions were the founders of 401 facilities (37%), while municipalities founded 263 facilities (24%). Non-public providers founded 426 facilities (39%). As can be seen from these figures, the geographical distribution of social services centres is adequate.

The Slovak Republic, despite its slow economic growth, continuously attempts to increase the amount of resources that are used on social services. That is why the Ministry of Labour, Social Affairs and Family of the Slovak Republic granted self-governing regions and municipalities, in 2013, 51 818 754 EUR for co-financing social services, which marks a significant increase when compared to 2012 (in 2012 the number stood at 38 164 516 EUR).

Article 13§4 - Specific emergency assistance for non-residents
RESC 13§4 ANDORRA

The Committee concludes that the situation in Andorra is not in conformity with Article 13§4 of the Charter on the ground that it is not established that all foreigners can receive emergency and social assistance for as long as they might require it.

303. The representative of Andorra provided the following information in writing:

L'assistance sociale d'urgence est quant à elle dispensée par le réseau de Centres d'Attention Primaire (8 centres sur tout le territoire), et aussi par la Croix-Rouge et Caritas Andorre, qui fournissent nourriture, vêtements, hébergement et soins d'urgence à toutes les personnes non résidentes en Andorre pour une durée maximale de sept jours, jusqu'au départ du pays vers un pays voisin (règlement sur les prestations d'assistance sociale du 18 septembre 2013, article 18§5). Toutes les aides relevant de l'assistance sociale et médicale d'urgence sont financées par des subventions imputées au budget de l'Etat.

Le 22 mai 2014 est entrée en vigueur la Loi des Services Sociaux et Services Socio Sanitaires, qui dans ses articles 4, 5 et 28 régule l'assistance sociale, ouverte à tous les résidents effectifs et inclue l'assistance sociale d'urgence aussi pour les personnes en situation d'urgence indépendamment de leur situation administrative, en fournissant nourriture, vêtements, hébergement et soins d'urgence pour une durée habituelle de sept jours, qui peut être prolongée si nécessaire pour assurer un bon retour au pays d'origine.

Les ressortissants étrangers ne sont pas rapatriés pour motif d'assistance sociale ou médicale, seulement dans les cas prévus par la Loi d'immigration.

Habituellement le départ du pays vers un pays voisin est immédiat, et le départ vers d'autres pays peut être retardé de quelques jours. De même, ce rapatriement peut être retardé quand la personne a besoin d'une assistance sociale et médicale. Dans ce cas, le rapatriement sera effectif quand la situation sociale et médicale le permette.

RESC 13§4 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 13§4 of the Charter on the ground that it does not find it established that all foreign nationals, legally or irregularly present in Ireland, have adequate access to emergency medical assistance.

304. The representative of Ireland provided the following information in writing:

Note please that regional health boards no longer exist – all references to same in legislation is now taken to refer to the local health manager.

In the majority of cases, emergency medical care is sought by the person presenting at an Accident and Emergency Department of a hospital. The Health Service Executive (HSE) provides that any non-EU\EEA persons who are not ordinarily resident in Ireland requiring emergency healthcare will be granted healthcare under section 45[7] of the Health Act 1970 at the discretion of the local health manager. Such discretion is not prescribed, however in practice, there is no question of urgent medical care being refused to persons who are not ordinarily resident and neither is distinction made as to whether the person is legally present or otherwise. The person presenting with an urgent medical need, as determined by a medical practitioner, is given the necessary treatment regardless of status in respect of being legally present. Consequently no data exists as to the number of cases where medical assistance has been refused on the basis of a failure to satisfy the requirement to be ordinarily resident – as such refusals do not occur. Denial of access to care for any group is not an option.

The level of care provided in such cases is such as is necessary to allow them to continue their stay in Ireland or else until the person is well enough to return home, The treatment does not extend to non-urgent or elective treatment which can reasonably be postponed until they return to their own country. However, treatment which a clinician considers as being immediately necessary, or urgent enough that it is not advised to wait until the person has returned to their home country, will always be provided without reference to whether or not that person is ordinarily resident or legally present.

The person's status regarding being ordinarily resident is however determined when it comes to the treatment provider's attempts to recoup the costs of the treatment provided, due to those persons as described above being liable to be charged for the economic cost of treatment received. Section 45(7) of the Health Act 1970 provides discretion to the local health manager in determining if paying for the service provided will cause the person undue hardship. This does not mean that the treatment is pro-

vided free of charge. An appropriate charge is raised and hospitals must take reasonable steps to recover any such charge, but may, on direction of the local health manager, not actively pursue recovery of that charge where it is considered not to be cost effective to do so.

Emergency primary care

As set out above, at an operational level, the provision of emergency medical care is through the utilisation of a "Generic Medical Card" which provides access to a GP and prescribed medications in emergency situations. Most of the emergency accommodation hostels/ facilities would have a Generic Medical Card. In addition, there are dedicated outreach G.P/ nursing services in the major cities, which have the capacity to respond to emergency medical care situations regardless of the status of those presenting.

Irish legislation relating to social assistance schemes does not contain any nationality conditions, and applies equally to nationals and non-nationals.

Exceptional Payment Needs

An Exceptional Needs Payment is a single payment to help meet essential, once-off, exceptional expenditure, which a person could not reasonably be expected to meet out of their weekly income. For example, the payments can be for special clothing for a person who has a serious illness, bedding or cooking utensils for someone setting up a home for the first time, visiting relatives in hospital or prison, or funeral costs. You can also apply for financial help for clothing for children.

You may be eligible for an Exceptional Needs Payment to help you with the cost of a funeral if your income is low. Each case is decided on its merits by the Department of Social Protection's representative, at your local health centre.

You may get help with the cost of your electricity or natural gas bill but only in exceptional circumstances. The Department's representative will make a decision on your case using the Code of Practice on Fuel Debt.

Urgent needs payments

An Urgent Needs Payment may be paid to people in emergency situations. For example, in the case of a fire, flood or other disaster, you may get a payment to help with the immediate cost of food and clothing. Depending on your circumstances, for example, if you are working or when an insurance claim has been settled, you may have to pay some or all of this back at a later date.

RESC 13§4 MALTA

The Committee concludes that the situation in Malta is not in conformity with Article 13§4 of the Charter on the ground that it has not been established that all foreign nationals, whether legally present or in an irregular situation, are entitled to emergency medical and social assistance in Malta.

305. Additional information is to be provided in the next National Report.

RESC 13§4 MONTENEGRO

The Committee concludes that the situation in Montenegro is not in conformity with Article 13§4 of the Charter on the ground that it has not been established that non-resident foreign nationals, whether legally present or in an irregular situation, are all entitled to emergency social and medical assistance.

306. The representative of Montenegro provided the following information in writing:

With regards the conclusions of the European Committee of Social Rights and request for provision of information as to which types of medical assistance are implemented and to what extent we note the following:

In line with the **Law on Healthcare** (Official Gazette of Montenegro 39/04 and 14/10), Article 13 item 9,13,14,15 the state provides funds for healthcare of citizens who have no health insurance, foreigners and staff of diplomatic and consular missions, who are provided healthcare on the basis of international agreements, if otherwise not provided for by such agreements, as well as to foreigners who have come to Montenegro at in invitation of state authorities for the duration of their stay in Montenegro, healthcare to foreigners who have been recognised the status of refugees or internally displaced persons in accordance with national legislation and international agreements, for healthcare of persons suffering from plague, cholera, virus haemorrhagic fever or yellow fever, as well as for foreign crew members of foreign sea ships who suffer from sexual diseases or other dangerous contagious diseases, with the right to equality of treatment at the primary, secondary and tertiary level of healthcare (Article 18).
Article 31 lays down the duty of healthcare institutions and healthcare staff to provide emergency medical assistance to foreigners. Foreigners pay healthcare costs if otherwise not provided in an international treaty. Montenegro is a signatory of a range of bilateral agreements on social insurance defining realisation of healthcare of nationals of the signatory states.

Article 30 of the Law on Healthcare provides that asylum seekers, persons who have been recognised the status of refuges, persons granted additional protection and persons granted temporary protection in Montenegro are entitled to healthcare in accordance with the provisions of this and a special Law, in this case the Law on Asylum (Official Gazette of Montenegro 45/2006).
The Rulebook on manner of realisation of healthcare by asylum seekers, persons who have been recognised the status of refuges, persons granted additional protection and persons granted temporary protection (Official Gazette of Montenegro 31/2010) sets out in detail how such persons may realise healthcare. This Rulebook provides that asylum seekers and persons who have been recognised the status of refuges have the right to special healthcare provided by public healthcare institutions in the territory of Montenegro, while dental care is provided in healthcare institutions that have signed contracts with the Health Insurance Fund of Montenegro. Asylum seekers and persons who have been recognised the status of refuges exercise the rights to healthcare on the basis of a certificate confirming they have applied for asylum or have been recognised the status of refuges.
Persons who have been granted additional protection and persons granted temporary protection are entitled to free emergency healthcare on the basis of a certificate confirming they have been granted additional or temporary protection.
Under Article 8 of the Law on Health Insurance **(Official Gazette of the Republic of Montenegro 39/04 and Official Gazette of Montenegro 14/12**), mandatory health insurance covers:

- foreigners who are employed in Montenegro by Montenegrin natural or legal persons on the basis of special agreements on international technical cooperation
- foreigners who are employed in Montenegro by international organisations and institutions and other legal and natural persons, if otherwise not provided by an international treaty or if they are not insured under the legislation of another country;
- foreigners who are employed in Montenegro at foreign diplomatic and consular missions, if such insurance is provided for by an international treaty.

Article 9 of this Law provides that nationals of countries that have signed international treaties with Montenegro on social insurance realise healthcare to the extent determined by such treaties.

Under the Law on Foreigners (Official Gazette of Montenegro 82/08, 72/09, 32/11) one of the requirements for issuance of a temporary residence **permit**, is that the applicant has healthcare in the country he comes from. Having in mind that temporary residence may be granted to a foreigner who intends to stay in Montenegro over 90 days for the purpose of employment and work, performance of commercial or entrepreneurial activity, seasonal employment, high school or University education etc, by achieving the purpose of his stay **such person realizes one of the grounds for healthcare and thereby becomes entitled to full extent of healthcare for the period of time he has been granted stay, and so do members of his family if they are not insured on another grounds.**

Article 55 paragraph 1 item 4 of the **Law on Foreigners** provides inter alia for the right of **foreigners with permanent residence in Montenegro** to healthcare in accordance with the Law on Health Insurance and **thus ensures their equal treatment with citizens of Montenegro,**
Article 8 of the Law on Insurance sets out who are the insured persons of the Health Insurance Fund and other types of insurance providers. This provision includes the unemployed among the insured persons, as well as beneficiaries of social welfare rights. By being recognised the right to healthcare, foreigners with permanent residence in Montenegro enjoy the same status as citizens of Montenegro and each ground of insurance relating to citizen applies to foreigners – including those who are employed, unemployed or beneficiaries or social welfare. The right to healthcare also covers members of their families if they are not insured on another grounds.

An analysis of legislative framework in the area of healthcare and health insurance suggests that the right to emergency care is not conditioned on the length of presence in Montenegro but rather on the need. Emergency medical care, as defined by the Law on Emergency Medical Care **(Official Gazette of Montenegro 49/08**), is provided to all non-resident foreigner nationals regardless of whether they are legally present in Montenegro or are in an irregular situation.

The adoption of the new Bill on Healthcare is particularly important with regards to defining the specifics of this right. Article 16 provides that the state secures measures of priority healthcare aimed at maintenance and improvement of health of citizens that are available to all citizens. Priority measure listed under item **14 of this** Article is emergency treatment and placement of a person whose life is under direct threat due to an illness or injuries. This measure is financed form the budget if the persons concerned have no health insurance. Therefore, the use of the term **person** instead of **citizen** contributes to the clarity of the provision regarding emergency medical assistance for citizens and foreigners alike. It should be noted however that even thus far there was no dilemma as to the meaning of this provision as it was applied with the aim that was behind it.

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

RESC 14§1 AUSTRIA

The Committee concludes that the situation in Austria is not in conformity with Article 14§1 of the Charter on the ground that clients of social services have not a right of appeal to an independent body in urgent cases of discrimination and violation against human dignity in all the Länder.

307. The representative of Austria provided the following information in writing:

Comments.

The concept of social services in Austria
Social services accounted for EUR 7.7 billion in 2012 (healthcare services excluded), i.e. 9 % of social benefits or approx. 2.5 % of GDP.

The major areas of social services include labour market policy measures, non-school childcare, homes for the elderly and nursing homes, day-structuring and extramural services, housing and/or employment schemes for people with special needs, as well as counselling and assistance to individuals with special problems (e.g. women exposed to domestic violence and their children, drug-dependent or drug-addicted persons, homeless persons or persons at risk of losing their homes, persons released from prison or asylum seekers).

According to ESSPROS data for 2012, EUR 1.2 billion were spent on services related to unemployment, EUR 2.2 billion on services related to children and families, EUR 1.9 billion on extramural, intramural and daycare services for the elderly and those in need of nursing care, EUR 1.5 billion on facilities for people with disabilities and EUR 0.9 billion on other social services.

With the exception of labour market-related measures, responsibility for most of the social services is in the hands of the *Laender*, local and municipal authorities.

Regional differences exist in the quality and quantity of services and the organizational structure within which they are provided. This is partly due to the fact that Austria has one *Land* (Vienna) that is fully urban in structure, whereas the other eight *Laender* only have a few smaller urban areas.

To give an example for the organisation of specific social services, Austria's long-term care system is briefly described below:

Due to the rapidly rising number of very old people, the risk of dependency on care has turned into a growing socio-political challenge. Austria's long-term care system was revised in the 1990s.

In place since 1993, the Federal Long-Term Care Benefit Act (*Bundespflegegeldgesetz, BPGG*) and the related *Laender* acts replaced the previous system of numerous types of cash benefits, which varied both in terms of benefit levels and eligibility criteria. Longer-term plans were established in 1994 for upgrading social services under which the *Laender* agreed to create minimum standards for extramural, intramural and daycare services by 2010. Target attainment has meanwhile been evaluated and the agreed plans are constantly being improved to meet the requirements of new forms of nursing care and of demographic developments.

Under the 2012 revision of the Long-Term Care Benefit Act, law-making and law enforcement powers have been transferred from the *Laender* to the Federal Government, thus pooling responsibilities for long-term care at the federal level. The Laender's previous long-term care benefit acts were repealed on 31 December 2011. This means a reduction in the number of decision makers from over 300 to seven in 2013 and can thus be considered a pioneering effort in administrative reform. With the Labour Law Reform Act (Arbeitsrechts-Änderungsgesetz, ARÄG) 2013 the Federal Long- Term Care

Benefit Act was revised and introduced yet another reduction of bodies responsible for long-term care benefit enforcement down to five decisionmakers as of 1 January 2014 (PVA, BVA, VAEB, SVB, SVAGW).

Austria´s long-term care system comprises two major pillars:
1. Long-term care benefit
2. Social services
Pursuant to the Federal Long-Term Care Benefit Act, long-term care benefit at seven levels is granted to persons in need of care independently of their income, their assets and the reasons necessitating care, and compensation for expenses incurred by the care is provided as a lump sum.

This is a right enshrined in the law for which recourse can be sought before the Labour and Social Court.

The purpose of long-term care allowance is to be able to pay for nursing and care services.

These social services are governed by the laws of the individual *Laender* in the framework of social assistance and are provided by the *Laender* and municipalities. There is no legal claim to nursing and care services because these services are provided within the scope of private sector management.

As opposed to sovereign administration, where the state acts within the scope of its sovereign powers and, specifically, imposes binding administrative decisions (*Bescheide*), within the scope of private sector management the state has an administrative function and meets its obligations on the basis of the legal instruments (contracts) available to all.

However, it is worth mentioning that the state is bound by fundamental rights also in cases where it does not act within the scope of its sovereign powers but uses providers under private law to fulfil public-sector responsibilities. This is referred to as *Fiskalgeltung* or fiscal validity. The equality principle (Article 7 of the Austrian Federal Constitutional Law (*Bundes- Verfassungsgesetz, B-VG*)) is of central importance in this context:

Supreme Court of Justice (*OGH*), 7 Ob 299/00, of 11 July 2001: *Where territorial corporate bodies (Gebietskörperschaften) act under private law, the relevant private-law provisions are applicable to them, i.e. private autonomy prevails as a general rule. However, Section 16 of the Austrian General Civil Code (Allgemeines Bürgerliches Gesetzbuch, ABGB) introduces the general values of the constitutional fundamental rights to private law, i.e. private autonomy is restricted not only by explicit statutory provisions but also by the equality principle enshrined in the constitution in cases where specific circumstances are present. The constitutional powers of territorial corporate bodies to act under private law (where this is necessary in order to meet their broad range of responsibilities) are therefore limited as they are allowed to act only in the public interest because the fundamental rights are a mandatory proposition for state authorities also if they act under private law.*

Please see also the *OGH* ruling of 28 November 2013, Ob 173/13d: *If a service is denied by a government body, reference to a provision in a self-binding law (Selbstbindungsgesetz) stipulating that there is no legal claim to such service is not adequate to justify a denial. In fact, there is an enforceable claim vis-a-vis the territorial corporate body on the basis of a self-binding law, unless such a claim is forfeited because the prerequisites stipulated in the self-binding law for rendering the service are not met or, where no such provisions apply, because the denial of the service does not violate in a specific case the equal-treatment principle or the non-discrimination principle for special reasons (RIS legislation RS0117458).*
With a view to the fiscal validity of fundamental rights and the principle of equal treatment in connection with social services, the Austrian Supreme Court of Justice previously ruled that, in summary, so-

cial services may only be denied if this is justified by special subject-matter specific reasons aligned with the legal purpose (1 Ob 272/02k).

The *Laender* can adapt their service portfolio offered to meet regional needs (e.g. by preparing need-oriented schemes and development plans).

By introducing the long-term care fund (in the Long-term Care Fund Act, *PFG*), the Federal Government supports the *Laender* and municipalities in granting earmarked subsidies and developing and expanding the nursing and care services offer in line with actual demand.

The monies drawn from the long-term care fund can be used for the following services:

- mobile nursing and care services;
- fully institutional nursing and care services;
- day-care services;
- temporary care in residential care facilities;
- case and care management;
- alternative forms of living;
- accompanying measures of quality assurance;
- innovative projects.

These services are offered in all the *Laender*, albeit in different forms.

Thanks to the long-term care fund, the offer will be expanded in the next few years and the *Laender* and municipalities will be better able to meet the individual nursing and care needs both of the persons in need of care and their families. Case and care management will be promoted in an effort to draft and offer tailored types of care.

Long-term care services are provided in Austria on a broad scale and at a high level: according to relevant statistics, from a total of 438,000 persons eligible for long-term care allowance (i.e. 5 % of Austria's population), an average of 32 % were granted mobile services and 16 % were taken care of in homes for senior citizens and nursing homes in 2012.

Proof of the superior quality of long-term care in Austria is provided by the project "Quality assurance in domestic care". Since 2001, skilled health workers have made some 20,000 house calls annually to the homes of recipients of long-term care allowance. Analyses suggest that 96 % of the people are completely and reliably cared for.

For more detailed information, comments of the individual *Laender* are provided below.

Please note that the accounts of the provision of social services in private sector management (bound by fundamental rights, ascertaining contractual services) apply to all the nine *Laender.* They apply also to those *Laender* which do not expressly explain this concept again, namely **Upper Austria** and **Salzburg**.

Tyrol

Article 14 sets forth the right to benefit from social welfare services (also referred to below as social services). Social welfare services include guidance, counselling, rehabilitation and other types of support by social workers, home care services, residential care facilities and care in social emergency cases.

Guidance and counselling services within the scope of minimum income ("open social assistance" and nursing and care) are offered by several institutions at different levels in Tyrol. The related services

are provided either at the level of territorial corporate bodies by the authorities responsible for minimum income, the municipalities and the District Administration Authorities or by publicly funded social welfare associations established under private law.

The individual right to access to guidance and counselling services by social service providers is safeguarded inasmuch as the relevant authorities and associations are open to the public during designated office hours.

Such services are often directly connected to applications for granting minimum income, particularly if these services are drawn from authorities with immediate local or subjectmatter competence.

In addition, mention should be made of the fact that any decisions regarding applications for granting assistance by way of minimum income have to be taken in writing, both for services of sovereign and private-law providers. In the case of sovereign services, decisions of the firstinstance authority can be challenged by means of a complaint (*Beschwerde*) to be submitted to the (independent) administrative court at the level of the *Land* (Section 31 of the Tyrol Minimum Income Act, *TMSG*). In the field of non-sovereign minimum income measures involving nursing and care (fully institutional, mobile, temporary care and day-care services), the authorities' decisions can be appealed before the ordinary courts.

The Tyrol Non-Discrimination Act (*Tiroler Antidiskriminierungsgesetz, TADG*) 2005 applies to the provision of services within the scope of sovereign administration and within private sector management by bodies of the *Land*, the municipalities, the local authorities associations as well as the self-government bodies established by state law. The *TADG* also applies to natural and legal persons in connection with activities subject to legislation by the *Land* (Section 1 *TADG*).

Section 3 Para. 1 *TADG* sets forth the general principle of non-discrimination, which according to Section 3 Para. 2 *TADG* 2005 applies in particular to matters involving social protection, including social security and healthcare services as well as social benefits and access to goods and services open to the public.

Since equal treatment of citizens of State Parties to the European Social Charter has been stipulated in Section 3 Para. 2 lit. c *TMSG*, they are not included in the non-discrimination exceptions defined under Section 4 *TADG* 2005.

This means that, in cases of discrimination against a citizen of a State Party to the European Social Charter, this person is eligible according to Section 7 *TADG* 2005 for reimbursement of the financial loss and personal interference with his or her integrity suffered.

A similar approach applies to assistance for people with disabilities. Social workers are employed in all District Administration Authorities, where they do not only play their role as experts involved in reviewing applications for social services but, for instance, also offer guidance free of charge.

Similar to services within the scope of minimum income, assistance for persons with disabilities is approved partly by public bodies and partly within the scope of private sector management, and recourse can be sought in the same way as described above.

Vienna
Pursuant to Section 22 Para.1 of the Vienna Social Assistance Act *(Wiener Sozialhilfegesetz,WSHG)*, social services are services offered with the aim to meet similar, regular, personal, family-related or social needs of persons seeking help.

According to Para.2, social services include: home care for the ill, family assistance, help to continue with household duties, general and special counselling, services to promote social contacts and to foster participation in cultural life; recreation for the elderly and persons with disabilities, homes.

The award of social services may be tied to reasonable financial contributions by the recipients and their relatives liable to provide maintenance.

In principle, Austrians, EEA citizens as well as third-country nationals have equal access to the various social services. General counselling is provided to every person seeking help irrespective of their nationality.
Counselling provided by the customer service of the Vienna Social Fund *(Fonds Soziales Wien)* with regard to applying and granting social services is free of charge and unlimited. Customers are invovled in decision-making in the framework of case management processes. An action plan is developed jointly with customers in order to meet their specific needs.

As a private-law organisation, the social assistance institution is responsible for the provision of social services.
The social assistance institution is bound by fundamental rights also within the scope of private sector management. Services granted within the scope of private sector management have to be accessible to all persons under identical conditions and to the same extent.

Social services are provided as contractual services within the scope of private sector management. Recourse to the ordinary courts can be sought by the contracting parties in order to ascertain the contractual services.

Lower Austria
Access to social services in Lower Austria is based on private law, i.e. the person seeking help concludes a corresponding service agreement with the social service provider in each case. Access to social services can consequently be deemed equal.

The financial assistance offered by the *Land* is provided by means of private-law supplements granted to the persons seeking help, except in cases of institutional care and assistance to persons with disabilities under medical treatment, assistance with early instruction, education and schooling, assistance with integration into working life, assistance with integration into social life and personal assistance, which are legally enforceable. The legal basis is provided by the Lower Austria Social Assistance Act *(NÖ Sozialhilfegesetz, NÖ SHG)*, which provides for equal treatment of foreign nationals and Austrian citizens in Section 4 Para.2 no.1 where equality is stipulated in state treaties (such as the European Social Charter). Free counseling and guidance services are offered all over Lower Austria.

In contrast to regulations in sovereign administration, where persons seeking help are required to deal with material as well as procedural regulations, the private-law approach provides low-threshold access to social services and financial support. Applications and/or complaints in the field of private-sector management assistance are not bound by deadlines; services can be granted quickly, easily and retroactively. Services rendered within a private law framework are by far more flexible and can be tailored to the individual's needs, resulting in much more effective solutions in the individual case.

According to the Austrian Nursing Care Report 2012 *(Pflegevorsorgebericht 2012)*, a total of 54,127 persons made use of social services (mobile services, services for people in residential care, day-care services, temporary care, case and care management) in Lower Austria in 2012.

As the current system of access to social services is well-established and works properly, changing to a sovereign-administration scheme that would require establishing an approval system for social ser-

vices as well as creating a corresponding organisational structure at authority-level cannot be justified from an economic point of view.

Carinthia
With regard to the concerns expressed in respect to Art.14 § 1, according to which legal remedies have to be available to beneficiaries of social services, specifically in the form of complaints and appeals to an independent body in urgent cases of discrimination against and violation of human dignity, it should be noted that in terms of minimum income benefits to be granted by the *Land* of Carinthia as an entity under private law, a pertinent review by the civil courts is in any case possible and therefore, the criterion of the right to appeal to an independent body is deemed met in the framework of the fiscal validity of fundamental rights and in particular of the equality principle, which was adequately confirmed by the Supreme Court of Justice.

In addition to this option of seeking recourse with civil courts, complaints can be filed with administrative bodies, such as the Ombudsman Board (*Volksanwaltschaft*).

Styria
In principle, social services are rendered by the respective social assistance institution as an entity under private law, i.e. the person seeking assistance has no legal claim to a certain measure. The aim of the regulations in the field of social services is mainly to create an obligation for social assistance institutions, which are responsible for establishing, maintaining and expanding social services to a sufficient extent.

However, social services in the field of long-term care are different in this respect. Mobile care in residential care facilities as well as the supply with nursing care aids and products are classified as services to secure the necessities of life, i.e. there is a legal claim to the related support. Where social services are provided in the form of home care for the ill, mobile care services and accommodation in appropriate residential care facilities, a complaint procedure to be ruled upon in an administrative decision (*Bescheid*) has to be conducted. Within the framework of the Styria Administrative Court Amendment Act *(Steiermärkisches Landesverwaltungsgerichts-Anpassungsgesetz)*, the previously two-step administrative procedure was amended to include an appeal to the administrative decision of the competent authority by means of a complaint submitted to the administrative court of the *Land* of Styria.

As in the past, persons in need of assistance may choose to appeal to the Ombudsoffice for Patients and Care *(Patienten- und Pflegeombudsschaft)* as well as to the Ombudsman Board.

Vorarlberg
Similar to Upper Austria, there is a right of appeal to the administrative court of the *Land* of Vorarlberg for cases where eligibility to social services under Vorarlberg state law exists (e.g.eligibility for basic minimum-income benefits according to Section 5 of the Minimum Income Act *(Mindestsicherungsgesetz, MSG)*, such as subsistence, accommodation expenses and the costs of nursing and care in a nursing home, if applicable.

For services provided within the scope of private sector management, civil action can be taken. For instance, if a child's well-being is at risk, it is the *Land* Government's responsibility to provide services to support parenting. Measures of parenting support are granted as parenting support within the family *(Unterstützung der Erziehung)* or full residential care *(volle Erziehung)* on the basis of an agreement, a court order or in case of imminent danger. As child and youth welfare services are provided in the framework of private sector managemen in such cases, the only resort is to take the matter to an ordinary court if the services are denied.

In addition, development-fostering and preventive services in the field of child and youth welfare are offered with the aim of supporting and accompanying the entire family (early help, pre-school childcare services and care of school children, prevention of violence and help provided to cope with problematic losses of relationships). At the same time, the *Land* Government is obligated to provide social services for children and young people, families and guardians or other persons with an intimate relationship. These services aim at promoting childcare and education of children and young people as well as overcoming problems of children and young people and their families. These services are used on a voluntary basis (at the discretion of those concerned).

Within the scope of integration assistance as laid down in the Opportunities Act *(Chancengesetz)*, persons with disabilities are offered integration assistance by the *Land* as an entity under private law. According to Section 9 Para. 2 of the Opportunities Act, persons with disabilities can apply for mediation services moderated by a representative of the Ombudsoffice for Patients and Care, if the *Land* Government takes a view different from that envisaged in the application regarding the service to be rendered. Pursuant to Section 3 of the above Act, approvals of integration assistance have to be be issued in writing. If an application is denied, or parts of the services applied for are denied, the reasons have to be given.

Within the scope of means-tested minimum income, social services laid down in Section 6 of the Austrian Minimum Income Act ("special services", previously referred to as "help in special life situations") are decided upon within the scope of private sector management.

Upper Austria
Although there is no legal claim to some of the services, this does not mean that they are not governed by acts of law. Rather, statutory provisions with regard to social assistance are contained in the Upper Austria Regulation on Homes for the Elderly and Nursing Homes *(Oö. Alten- und Pflegeheimverordnung)*, the Upper Austria Social Assistance Act, the Upper Austria Minimum Income Act, the Federal Long-Term Care Benefit Act, etc. Apart from defining such assistance as a government responsibility, they also safeguard that the required services are provided. In addition, other provisions such as within the scope of the Consumer Protection Act (Section 27b et seq.) apply.

Salzburg
Where the term "social services" refers to mobile, partly and fully institutional services within the meaning of Art.15a of the Federal Constitutional Law (*Bundes-Verfassungsgesetz,B-VG*) regarding agreements on common measures of the Federal Government and the *Laender* for persons in need of care, the contracting parties undertake to provide the legal resort of filing an action with the competent Regional Court *(Landesgericht)* in its capacity of Labour and Social Court in the case of "benefits in cash". This does not apply to "benefits in kind - social services". For this reason, social services such as home care and household support are rendered by the *Laender* within the scope of private sector management, whereas there is a legal claim to services to secure the necessities of life.

RESC 14§1 AZERBAIJAN

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 14§1 of the Charter on the ground that access to social services by nationals of other States Parties is subject to an excessive length of residence requirement.

The Representative of Azerbaijan said that this conclusion of non-conformity will initiate discussions within the relevant Ministry. Proposals may then be elaborated with a view to bringing the legislation in line with the requirements of the ECSR.

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

RESC 14§1 BELGIUM

The Committee concludes that the situation in Belgium is not in conformity with Article 14§1 of the Charter on the grounds that:

- *social services are not organised in such a way that they are adapted to needs;*
- *effective and equal access to social services is not ensured to all persons.*

309. The Representative of Belgium regretted that in the original national report upon which the ECSR conclusions were based, not all regions had contributed to the same extent. This imbalance in the national report had certainly been one of the reasons for the conclusions of non-conformity.

310. The Representative of Belgium illustrated with additional information supported with tables and figures that all social services on the territory of Belgium worked on the same high level with respect to methodology, evaluation controls including sanctions, user participation, client orientation etc.

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

RESC 14§1 BULGARIA

The Committee concludes that the situation in Bulgaria is not in conformity with Article 14§1 of the Charter on the ground that it has not been established that the number of social services staff is adequate to users' needs.

312. Additional information is to be provided in the next National Report.

RESC 14§1 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 14§1 of the Charter on the ground that it has not been established that effective and equal access to social services is guaranteed to nationals of all other States Parties

313. The representative of Hungary provided the following information in writing:

1. Directive 2004/38/EC (hereinafter: Free Movement Directive) provides the right to freedom of movement and residence of European Union and other EEA citizens and their third-country national family members.

– However, on the one hand, this right can only be relied on when the Union citizens and their family members reside in a Member State different from the Union citizens' Member State of nationality (requirement of a cross-border element).

– On the other hand, the Free Movement Directive lays down conditions to be met for obtaining the right of residence for a period of longer than three months, so in the case of economically inactive people, proof of having comprehensive sickness insurance and sufficient resources are required. When the host Member State considers that the person becomes a burden on the social assistance system during the period of residence, the right of residence may be revoked. The right of residence may furthermore be revoked on grounds of public policy, public security or public health reasons; however, in such cases the withdrawal of this right shall be based exclusively on the personal conduct of the individual concerned. Citizens of the Union and their family members shall have the right of

permanent residence after having resided legally for five years in the host Member State concerned. The right of permanent residence provides for greater protection for individuals against the withdrawal of the right of residence and expulsion.

With regard to the abovementioned cases of residence for a period of longer than three months, non-active EU citizens should in principle not be eligible for social assistance benefits since they would have to show resources higher than the income threshold under which such assistance is granted as a condition for residence. However, it can happen that the situation of a non-active EU citizen who initially has sufficient resources changes with time and the citizen will have to rely on the social assistance benefits of the host Member State. In such cases, where Member States have justified reasons to doubt that the situation of the EU citizen concerned could improve, they can check whether he/she has become an unreasonable burden to their social assistance system and decide to terminate the right of residence in line with the Free Movement Directive.

2. According to Article 6(1) of **Act I of 2007** on the Entry and Residence of Persons with the Right of Free Movement and Residence (hereinafter: FMA) all EEA nationals shall have the right of residence for a period of longer than 90 days within any 180 days period if they:
a) intend to engage in gainful activities;
b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family for such services as required by statutory provisions; or
c) are enrolled at an educational institution governed by the act on national public education or the act on national higher education, for the principal purpose of following a course of study, including vocational training and adult education if offering an accredited curriculum, and they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.

Article 7(1) of FMA sets out that the third-country national family members of any Hungarian citizen who is engaged in gainful activities shall have the right of residence for a period of longer than 90 days within any 180 days period. According to Article 7(2) of FMA the right of residence for a period of longer than 90 days within any 180 days period shall extend to the family members of a Hungarian citizen if:
a) they have sufficient resources not to become a burden on the social assistance system of Hungary during their period of residence; and
b) they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.

3. According to Article 21(1) of **Government Decree No 113/2007. (V.24.) on the Implementation of Act I of 2007** on the Entry and Residence of Persons Enjoying the Right of Free Movement and Residence:

an EEA national or his/her family member shall be considered to have sufficient financial resources if the monthly income in the household concerned reaches the actual minimum sum of the old-age pension, per capita. An EEA national or his/her family member shall be considered to have become an unreasonable burden on the social assistance system of Hungary if he/she receives:
– social welfare for the elderly under Article 32/B(1) of Act III of 1993 on Social Administration and Social Welfare Benefits,

– benefits provided to persons of active age under Article 33 of Act III of 1993 on Social Administration and Social Welfare Benefits,
– attendance allowance under Article 43/B of the Act III of 1993 on Social Administration and Social Welfare Benefits,
for any period of more than three months.

In case the monthly income per capita in the household of the applicant is less than the actual minimum sum of the old-age pension, the competent authority, following an examination of the applicant's income and financial situation, establishes whether the applicant has sufficient resources for him/herself and his/her family members not to pose an unreasonable burden on the social assistance system of Hungary.

If the purpose of stay of the third-country national is to pursue studies in Hungary, the competent authority establishes the existence of sufficient resources without further examination, when the applicant declares that he/she has sufficient resources for him/herself and his/her family members to stay in the territory of Hungary without posing an unreasonable burden on the social assistance system.

Moreover, by virtue of Government Decree No 113/2007. (V.24.) on the Implementation of FMA, for the purposes of determining as to whether an EEA national and his/her family member has become an unreasonable burden the competent authority shall take into account the personal circumstances of the person in question, such as the duration of residence in the territory of Hungary, the duration of payment of benefits and whether the difficulties are considered permanent or temporary.

With regard to the administrative practice in Hungary, the number of withdrawals of the right of residence by claiming that the EEA national applicants would be an unreasonable burden on the social assistance system is low. Based on practical experience, in case the foreigner did not have sufficient financial resources through the period of his/her stay in Hungary, the EEA national family member residing in Hungary (usually the spouse) agreed to provide material support for him/her.

Summary:
Entitlement to social benefits basically doesn't depend on the length of residence. Besides Hungarian nationals persons with defined legal status are also entitled to benefits provided by the Social Act (refugees, protected persons, immigrants and residents). Conditions of obtaining the relevant statuses are regulated by laws out of the scope of the social sector.

In addition to the abovementioned, nationals of State Parties of the Revised European Social Charter who are legally residing in Hungary might be entitled to local allowance, social catering and accommodation in case of danger to life or risk of bodily integrity.

In case of persons enjoying the right of free residence more than three months the law stipulates that the entitlement to social benefits is subject to declared place of residence.

RESC 14§1 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 14§1 of the Charter on the grounds that it has not been established that:
- *there is an effective and equal access to social welfare services;*
- *the quality of social welfare services meets users' needs.*

314. The representative of Belgium provided the following information in writing:

As set out in the response to Article 13, Irish legislation relating to social assistance schemes does not contain any nationality conditions, and applies equally to nationals and non-nationals.

The Data Protection Act 1988, which applies to both the public and private sectors, gives effect to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108). Ireland ratified the Convention in 1990.
The Data Protection (Amendment) Act 2003 gives effect to the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (No 181). Ireland ratified the Additional Protocol in 2009.

Local and Community Development Programme (LCDP)
The LCDP was introduced in January 2010. It replaced the Local Development Social Inclusion Programme and the Community Development Programme. It aims to tackle poverty and social exclusion through partnership and constructive engagement between Government and its agencies and people in disadvantaged communities. It is a key tool of Government in providing employment supports, training, personal development/capacity building and other supports for the harder to reach in the most disadvantaged areas in society. It is a locally accessible, frontline intervention, supporting disadvantaged communities.
The LCDP is underpinned by four high level goals:
- To promote awareness, knowledge and uptake of a wide range of statutory, voluntary and community services;
- To increase access to formal and informal educational, recreational and cultural development activities and resources;
- To increase peoples' work readiness and employment prospects; and
- To promote engagement with policy, practice and decision making processes on matters affecting local communities.

The objectives of the LCDP include the following:
- Develop and sustain a range of services to support, prepare and assist people to enter the Labour Market;
- Develop and sustain strategies with local enterprises to increase local employment prospects; and
- Develop and sustain strategies to increase local self-employment prospects.

Measures to provide services to children and young people focus on increasing awareness and supporting access to opportunities for education, recreational and cultural development. The uptake of formal educational opportunities for children, young people and adults includes pre-school, compulsory and post-compulsory accredited education or training, while informal opportunities include youth work and non-accredited post-compulsory education and training. Specific activities in the area of early childhood education include speech and language supports, play therapy and transition to primary school programmes. A range of initiatives are delivered to engage with those at risk of leaving school such as youth clubs/cafes, mental health programmes, guidance and counselling and youth leadership training. Sport and recreational activities are a popular method for engaging young people and to build trust and confidence amongst those involved. Most of the activities in this area combine sports/recreation with other personal development supports to enhance mental and physical wellbeing and participation in the community.

The LCDP officially ended at the end of 2013 having operated for four years with funding of €281m over that period. It is being implemented on a transitional basis for 2014 with a budget of €47m pending the roll out of a new Social Inclusion Programme in April 2015. As a key intervention for the

harder to reach the new Programme (Social Inclusion and Community Activation Programme (SICAP)) will target the following groups:

- Children and Families from Disadvantaged Areas
- Lone Parents
- New Communities (including Refugees/Asylum Seekers)
- People living in Disadvantaged Communities
- People with Disabilities
- Roma
- The Unemployed (including those not on the Live Register)
- Travellers
- Young Unemployed People from Disadvantaged areas

In accordance with the Public Spending Code, good practice internationally, legal advice and in order to ensure the optimum delivery of services to clients; the new Programme, SICAP will be subject to a public procurement process. The public procurement process, which is currently under way, is a competitive process that is open to Local Development Companies, other not-for-profit community groups, commercial firms and national organisations that can provide the services to be tendered for to deliver the new Programme.

The proposals outlined in Putting People First - Action Programme for Effective Local Government seek to position local government "as the primary vehicle of governance and public service at local level – leading economic, social and community development, delivering efficient and good value services, and representing citizens and local communities effectively and accountably". As part of the programme of reform of local government, Local Community Development Committees (LCDCs) are being established in all local authority areas. These Committees, comprising public-private socio-economic interests, will have responsibility for local and community development programmes on an area basis including the SICAP. They will develop, co-ordinate and implement a more coherent and integrated approach to local and community development than heretofore, with the aim of reducing duplication and overlap and optimising the use of available resources for the benefit of citizens and communities.

Web links:

Local and Community Development Programme:

http://www.environ.ie/en/Community/LocalCommunityDevelopment/

The Seniors Alert Scheme

The Community Support for Older People (CSOP) Scheme was suspended in April 2009 to allow the Department an opportunity to review its operation. The Scheme changed from CSOP to the Seniors Alert Scheme in May 2010. The Seniors Alert Scheme provides grant assistance towards the purchase and installation of personal monitored alarms to enable older persons, of limited means, to continue to live securely in their homes with confidence, independence and peace of mind. The Scheme is administered by local community and voluntary groups with the support of the Department.

Year	Expenditure€
2009	2.13
2010	1.94
2011	2.43
2012	2.52
2013	2.33

Further information regarding the Scheme is available at: http://www.environ.ie/en/Community/SeniorsAlert/

RAPID

The RAPID (Revitalising Areas by Planning, Investment and Development) Programme is a Government initiative, which targets 51 of the most disadvantaged areas in the country.

Further information on RAPID is available through this link.

RESC 14§1 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 14§1 of the Charter on the grounds that it has not been established that:

- *there is an adequate number of staff providing social services;*
- *social services staff have sufficient qualifications.*

315. Additional information is to be provided in the next National Report.

RESC 14§1 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 14§1 of the Charter on the ground that it has not been established that there exists an effective and equal access to social services.

316. Additional information is to be provided in the next National Report.

RESC 14§1 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 14§1 of the Charter on the ground that there are no mechanisms for supervising the sufficiency of social welfare services.

317. Additional information is to be provided in the next National Report.

Article 14§2 - Public participation in the establishment and maintenance of social services

RESC 14§2 BELGIUM

The Committee concludes that the situation in Belgium is not in conformity with Article 14§2 of the Charter on the grounds that

- *the conditions under which non-public providers take part in the provision of welfare services are adequate;*
- *supervisory machinery exists throughout the country to ascertain the quality of the services provided by non-public bodies;*
- *users are consulted regarding the development of the policies relating to all social wel-*

fare services.

318. The representative of Belgium provided the following information in writing:

Paragraphe 1 : Encouragement ou organisation des services sociaux

COMMENTAIRE DU COMITÉ

Le Comité conclut que la situation de la Belgique n'est pas conforme à l'article 14§1 de la Charte aux motifs qu'il n'est pas établi que :
- les services sociaux sont organisés d'une façon adaptée aux besoins ;
- l'accès égal et effectif aux services sociaux n'est pas assuré pour tous.

Paragraphe 2 : Participation du public à la création et au maintien des services sociaux

COMMENTAIRE DU COMITÉ

Le Comité conclut que la situation de la Belgique n'est pas conforme à l'article 14§2 de la Charte aux motifs qu'il n'est pas établi que :
- les conditions dans lesquelles les prestataires non publics participent à la fourniture de services sociaux sont adéquates ;
- des mécanismes de contrôle sont prévus sur l'ensemble du territoire national pour s'assurer concrètement de la qualité des services fournie par les prestataires non publics ;
- les usagers sont consultés pour l'élaboration des politiques liées à l'ensemble des services sociaux.

1. Evolution depuis le dernier rapport

Synthèse de la contribution

Le rapport de la Belgique (2012) sur lequel s'appuient ces conclusions du CEDS était présenté de façon déséquilibrée en ce qu'il ne décrivait pas la situation relative aux services sociaux de façon suffisamment complète, telle qu'elle s'est développée dans les Régions et Communautés de Belgique. Le rapport avait surtout décrit la situation en Flandre. Ce déséquilibre explique sûrement la plupart des conclusions du CEDS qui se préoccupe légitimement d'un panorama plus complet. Nous trouvons cependant intéressantes ses remarques en ce qu'elles obligent à évaluer la situation sur base de quelques critères très pertinents d'évaluation de l'organisation et de la performance des services sociaux en regard des objectifs de la Charte.
Pour ce rapport, nous pouvons présenter ci-dessous des commentaires plus descriptifs de certaines de ces autorités régionales et communautaires qui n'avaient pas contribué plus au rapport et, déjà, une vision plus prospective des réformes envisagées par le nouveau gouvernement flamand installé au début de l'été.
Dans une présentation de synthèse des pages qui suivent et illustrent, nous pouvons dire que la Région wallonne, la Commission communautaire commune à Bruxelles - ainsi que la Communauté de langue allemande -, qui n'avaient pas été présentées, travaillent avec la même gamme de services sociaux, publics et privés, et avec des méthodologies comparables, outre celles qui leur sont propres, basées notamment sur les éléments suivants : une programmation publique, des agréments, des subsides ou des conventions pour des prestataires publics, semi-publics ou privés, des contrôles et évaluations, des sanctions (retraits d'agréments ou de subsides ou non-renouvellement de conventions), des organes consultatifs des usagers, la professionnalisation toujours plus étendue des secteurs sociaux et de la santé, des formes de participation des usagers, des coopérations et des partenariats, etc. Ces éléments sont décrits dans les pages qui suivent.
Les directives européennes sur la non-discrimination ont été transposées par la Belgique sur base de nombreux Décrets des Communautés et des Régions, en sorte que ces services, aides et prestations sont délivrés sans discrimination.

Toutes les Régions et Communautés belges doivent absorber actuellement leurs nouvelles compétences, notamment en matière de politique de santé, qu'elles reçoivent en vertu de la 6ème réforme de l'Etat qui a augmenté leurs compétences au détriment de l'Etat fédéral. Cette réforme d'envergure va les amener toutes à des réformes d'organisation et à l'extension de services.
Le nouveau gouvernement flamand a adopté un nouvel accord de gouvernement (2014-2019) qui, à sa demande, est joint à cet envoi. Ce document politique se réfère à diverses réformes structurelles dans ces secteurs qui ont été effectuées sous la législature précédente afin d'améliorer l'organisation et la délivrance des services sociaux en Flandre. Il va poursuivre des réformes. Au cours de la prochaine législature, la politique s'appuiera sur notamment sur les orientations suivantes :
-la perspective du patient, du client ou du demandeur d'asile doit déterminer l'organisation des soins et de l'aide. Ce qui signifie qu'il faut développer le système général vers un modèle de soins et d'aide sociale orienté davantage sur la demande qui garantit la collaboration intersectorielle entre services et prestataires, la continuité des soins et de l'aide, l'efficacité et l'accessibilité. Le principe général sera que le client participe à l'élaboration de son trajet de soins en tant que meilleur expert de sa situation et de ses besoins ; sa participation à un réseau social d'entraide sera encouragée.
- Une plus grande désinstitutionalisation des soins.
- Un accent plus marqué sur la prévention, la détection et l'intervention précoces. L'importance des soins et aide « de première ligne ». Cette politique s'appuie sur le principe de subsidiarité : l'assistance doit être la moins étendue possible au profit d'aides et de services les plus spécialisés.
- Valorisation de l' « entreprise sociale » afin de pourvoir aux besoins de soins (c'est-à-dire une approche plus intégrée y compris des partenaires et prestataires).
- Encouragement à l'action de partenaires et soutien à ceux-ci. Parmi eux, les administrations locales qui devront assurer une offre importante de services à ces niveaux. Cet objectif a pour but de diminuer l'action administrative plus centralisée, d'éviter la multiplication des instances compétentes. Les contrôles seront organisés sur une base a posteriori. Un autre objectif est de réduire l'effet « listes d'attente ».
- Les autorités prévoient un renforcement par une réorganisation de la concertation sociale avec la société civile ainsi que la concertation tripartite avec les partenaires sociaux représentant les travailleurs des secteurs du bien-être, de la santé, de l'aide aux familles, à la jeunesse, etc. Cette concertation fonctionnera sur une nouvelle base réglementaire.
- Le gouvernement se préoccupera de développer les services de garde aux enfants.
- L'accessibilité aux services, soins et prestations est reconnu comme un objectif-clé de la lutte contre la pauvreté. Il devra permettre aux personnes concernées d'exprimer facilement et sans crainte de stigmatisation leurs besoins et d'accéder aux infrastructures.
- La perspective d'égalité des chances est également consolidée.
- Le transfert des compétences résultant de la 6ème réforme de l'Etat est ressenti comme une chance et une opportunité de développer et de mieux intégrer la protection sociale en Flandre.

2. Réponses aux questions du Comité

2.1. En Région wallonne

En Région wallonne, comme dans toutes les Régions du pays, il existe un Centre public d'action sociale par commune. L'aide sociale octroyée par ces centres est régie par la loi organique du 8 juillet 1976 . Cette aide sociale peut être matérielle, sociale, médicale médico-sociale ou psychologique. « Toute personne a droit à l'aide sociale. Celle-ci a pour but de permettre à chacun de mener une vie conforme à la dignité humaine. » ..
Les prestations des services sociaux en Région wallonne sont gratuites ou facturées à un coût modique bien inférieur au coût réel (cf. secteur des maisons d'accueil et maternelle pour les personnes en grande précarité). L'examen des dossiers est individuel, il fait l'objet d'une procédure menée par des professionnels diplômés et formés en déontologie. L'accès à l'ensemble de ces services ne peut faire l'objet de restrictions sur base de « la nationalité, une prétendue race, la couleur de peau, l'ascendance ou l'origine nationale ou ethnique »..

La Région wallonne contrôle et/ou agrée les services sociaux de son territoire tel que prévu par le code wallon de l'action sociale et de la santé .Si cela s'avère nécessaire, un recours en matière d'aide individuelle peut être déposé à l'encontre d'une décision d'un CPAS devant les juridictions du travail. Pour les autres services la plainte doit être adressée à la Région wallonne ou à la commune en fonction du pouvoir subsidiant de cet organisme.
Le réseau Wallon de lutte contre la pauvreté conventionné et soutenu financièrement par la Wallonie permet de donner la parole au public précarisé sur ces questions. En outre, des dispositions ont été prises dans le Code de la Démocratie locale et de la Décentralisation (CDLD) afin de donner la possibilité des conseils consultatifs thématiques dans les communes. Une Circulaire a été envoyée à toutes les communes pour les encourager à créer des conseils consultatifs des aînés et des personnes handicapées.

Organisations des services en Wallonie

Les politiques sociales et de santé de la Région wallonne sont organisées depuis 1996 autour de 2 grandes institutions que sont le Service public de Wallonie (anciennement Ministère de la Région wallonne), Direction générale des Pouvoirs locaux, Action sociale et Santé (DGO5) et l'Agence wallonne pour l'Intégration des personnes handicapées (AWIPH).

Le budget 2012 du Secteur Action sociale et santé de la Région wallonne se répartit comme suit :
Le budget 2012 consacré aux politiques sociales et santé concrètement s'élève à 903.266.000 millions d'euros dont +/- 59 % consacré aux financements des politiques en faveur des personnes handicapées.

Au sein des politiques sociales, le secteur de la Famille (service d'aide aux familles - 159.500.000) représente la plus grande partie des moyens alloués aux secteurs de la famille et des aînés (192.788.000 euros) le budget de l'Action sociale s'élève en 2012 à 67.389.000 euros).

Les secteurs de l'action sociale et de la santé financés par la Région wallonne visent à soutenir des services de 1ère ligne qui assurent une assistance, une prise en charge ou fournissent des prestations (aide sociale ou aide à l'insertion sociale, assistance aux victimes, hébergement en maison d'accueil ou en abri de nuit, médiation de dettes, aide familiale, intégration des personnes d'origine étrangère, aide alimentaire, aide administrative, etc.…).

La qualité des prestations est assurée tout d'abord par les normes d'agrément.

De plus, il convient de souligner que les aides, l'assistance ou les prestations doivent être assurée par des professionnels (travailleurs sociaux, psychologues, éducateurs, aide familiale, etc.…).

Enfin, dans certains secteurs, des normes spécifiques ont été édictées pour préciser les modalités d'intervention ce qui doit garantir une certaine qualité.

La qualité des prises en charge est également garantie par les formations obligatoires (médiation de dettes, services d'insertion sociale,..) ou facultatives (relais sociaux, …) que les travailleurs spécialisés doivent ou peuvent suivre.

Plusieurs dispositifs de la Région wallonne prévoyant l'agrément et le subventionnement de services sociaux peuvent être considérés comme étant de nature à lutter contre la pauvreté et l'exclusion sociale :

Les différents dispositifs

Des dispositifs de prévention et de lutte contre le surendettement : (SMD, crédit social accompagné, centres de références)

Depuis l'adoption du décret du 7 juillet 1994 concernant l'agrément des institutions pratiquant la médiation de dettes, la Région wallonne a développé et soutenu une politique dynamique de lutte contre le surendettement articulée autour de 3 instruments que sont :

- l'Observatoire du Crédit et de l'Endettement chargé d'étudier cette problématique, d'assurer des formations de base et continuées pour praticiens de la médiation et de contribuer à la prévention générale,

- les centres de références (4) chargés d'appuyer les institutions de médiation de dettes agréées et d'assurer des formations et la prévention, et

- les institutions de médiation de dettes agréées (221) qui traitent en première ligne des dossiers individuels.

Le rôle concret de ces dernières consiste à établir des plans d'apurement des dettes tenant compte des moyens des personnes faisant l'objet d'une médiation avec l'accord du débiteur et des créanciers. Ces plans doivent respecter la dignité humaine, c'est-à-dire être réalistes pour que les personnes concernées puissent mener une vie digne. Le cas échéant, les institutions agréées peuvent être désignées par le juge pour la réalisation d'un règlement collectif de dettes (procédure judiciaire).

La Wallonie a continué à suivre cette politique et à soutenir l'action de ces opérateurs confrontés à une recrudescence des demandes de médiation en raison de l'aggravation de la situation économique depuis 2008.

En 2011, la Wallonie en collaboration avec l'Observatoire du crédit et de l'Endettement, a développé et mis en ligne un portail surendettement destiné à la population confrontée avec la question du surendettement ou désireuse de recevoir des informations pertinentes et des conseils par rapport au surendettement ou à l'endettement. (http://socialsante.wallonie.be/surendettement/)

Un projet de décret et un projet d'arrêté, dont certains aspects ont été tirés d'une étude du secteur réalisée entre 2009 et 2011, ont été élaborés en 2011 et ont été présentés au parlement et au gouvernement en vue de leur adoption définitive. Ces projets visent à améliorer la qualité du service rendu et à renforcer l'expertise des services dont le rôle en faveur de la population est indispensable.

Par ailleurs, durant les années 2009, à 2011, la Wallonie a initié des actions de prévention du surendettement en mettant en place un comité de coordination des acteurs de la lutte contre le surendettement et en menant diverses actions de formation de personnes relais chargées de mener auprès de publics cibles dont ils avaient en charge la guidance des actions de prévention du surendettement.
Pour les années 2008 à 2011, on relève 217 services ayant traité les nombres de dossiers mentionné ci-après :

2008 – 18.380 dossiers ;
2009 – 18.751 dossiers ;
2010 – 18.706 dossiers ;
2011 – 18.575 dossiers.

Conclusions 2008 - 2011

Bien que les compétences de prévention et de subventionnement du surendettement soient partagées entre l'Etat fédéral et la Wallonie, il peut être observé que la convergence des dispositifs tels que la centrale positive des crédits, le règlement collectif de dettes, la médiation amiable de dettes, l'existence de nombreux services sociaux agréés et la prévention du surendettement, permettent une

certaine maîtrise de phénomène par des réponses adaptées, si l'on effectue une comparaison avec d'autres pays européens.

Maisons d'accueil, maisons de vie communautaire, abri de nuit, maisons d'hébergement de type familial.

Principe :

Les maisons d'accueil ont pour mission d'assurer aux personnes en difficultés sociales un accueil, un hébergement limité dans le temps dans une structure dotée d'équipements collectifs ainsi qu'un accompagnement adapté afin de les soutenir dans l'acquisition ou la récupération de leur autonomie.

Les maisons de vie communautaire ont pour mission d'assurer aux personnes en difficultés sociales ayant séjourné préalablement en maison d'accueil ou dans une structure exerçant la même mission et agréée par la Communauté flamande, la Communauté germanophone, la Commission communautaire commune, la Commission communautaire française ou une autorité publique d'un Etat limitrophe, un hébergement de longue durée dans une structure dotée d'équipements collectifs ainsi qu'un accompagnement adapté afin de les soutenir dans l'acquisition ou la récupération de leur autonomie.

Les abris de nuit ont pour mission d'assurer inconditionnellement aux personnes en difficultés sociales dépourvues de logement un hébergement collectif d'urgence pour la nuit.

Les maisons d'hébergement de type familial ont pour mission d'assurer aux personnes en difficultés sociales un hébergement limité dans le temps.

Nombre de service agréé (par types de services) :

	2008	2009	2010	2011
Maisons d'accueil	53	53	53	54
Maisons de vie communautaire	8	11	11	11
Abris de nuit	7	7	7	8
Maisons de type familial	4	4	4	4
Nombre Total des institutions	72	75	75	77

Nombre des nuitées pour les années :

Type	2008		2009		2010		2011	
Maisons d'accueil	n=53/53	489.371	n=53/53	488.040	n=52/53	487.901	n=44/54	405.937
Maisons de vie communautaire	n=8/8	31.547	n=11/11	56.047	n=10/11	54.918	n=9/11	46.675
Abris de nuit	n=1/7	3.071	n=2/7	7.085	n=4/7	21.031	n=6/8	16.374
Maisons de type familial	n=3/4	4.677	n=4/4	6.064	n=1/4	2.628	n=1/4	920
Total	n=65/72	528.666	n=71/75	557.236	n=67/75	570.113	n=60/77	469.906

Conclusions 2008-2011 :

Sur les 4 dernières années, le nombre d'institutions est passé de 72 à 77.

Le nombre de nuitées s'est accru chaque année et devrait en 2011 (les statistiques ne sont pas encore complètes) avoisiner les 600.000 nuitées ce qui représente plus de 1.640 personnes hébergées en moyenne par jour.

Centres de service social

Principe :

Les Centres de service social accueillent les personnes et les familles qui se trouvent dans une situation critique, offrent aux personnes une aide sociale individualisée de type généraliste, informent et/ou orientent les personnes vers des services spécialisés et favorisent l'intégration et la participation des personnes dans leur milieu de vie.

Nombre de service agréé et ou subventionné : 32

Nombre de dossiers traités :

2008 : 107614
2009 : 100.610
2010 :103.564
2011 : 132.552

Conclusions 2008 -2011

Les Centres de service social accompagnent les personnes perdues dans les dédales administratifs ou qui vivent dans la précarité. Ils jouent un rôle fondamental dans la lutte contre la pauvreté et l'exclusion sociale, en aidant les personnes à faire valoir leurs droits sociaux et en matière de santé.

Relais sociaux

Principe :

Les Relais sociaux mettent en réseau les acteurs publics et privés afin d'optimaliser les réponses des partenaires aux besoins des personnes en détresse sociale aiguë. Ils sont organisés autour de 4 pôles: l'accueil de jour, l'accueil de nuit, le travail de rue et l'urgence sociale. Ils jouent aussi un rôle d'observatoire des phénomènes de grande précarité permettant de réorienter les dispositifs. Les relais sociaux renforcent leurs dispositifs hivernaux et sont ainsi en mesure de porter assistance aux plus exclus à savoir les sans-abris.

Nombre de service agréé et ou subventionné : 7

Nombre de nuitées renseignées :

2008 : données indisponibles 2009 : 40.073 (incomplet) 2010 :48.302 2011 : 52.934

Conclusions 2008 -2011

Les relais sociaux ont permis de coordonner les actions sur le terrain pour répondre aux besoins des personnes sans-abris. La mise en réseau a permis l'émergence de projets pilote prometteurs pour sortir des personnes de la rue. La précarisation croissante et profonde d'une partie de la population implique des réponses sociales rapides pour couvrir les besoins élémentaires des personnes.

Services d'insertion sociale

Principe :

Les Services d'insertion sociale développent des actions collectives pour et avec les personnes, mobilisent les ressources des personnes, assurent un suivi individuel, favorisent la participation à la vie sociale, économique, politique et culturelle et renforcent la confiance des individus en leur propre capacité.

Nombre de service agréé et ou subventionné : 80 (33 ASBL et 47 CPAS)

Nombre de personnes aux ateliers :

2008 : 2.554
2009 : 2.645
2010 : 3.097
2011 : 3.337

Conclusions 2008 -2011

En 3 ans, ce secteur est passé de 64 à 80 services. Ces services permettent aux personnes en situation d'exclusion une amélioration de leur participation à la vie sociale et leur intégration.

Service d'aide sociale aux justiciables

Principe :

les services d'aide sociale aux justiciables offrent une aide psychosociale aux victimes d'infractions et aux personnes inculpées et aux détenus libérés ainsi qu'à leurs proches.

Nombre de service agréé et ou subventionné : 13

Nombre de dossiers traités :

2008 : 2.590
2009 : 1.632 (données incomplètes)
2010 : 3.256
2011 : 3.502

Conclusions 2008 -2011

Ces services assurent de l'assistance directe aux victimes. Ils collaborent activement avec les services d'assistance aux victimes dans les zones de police et les services d'accueil des parquets et ont pour mission d'atténuer les souffrances morales des victimes et de leurs proches.

Subvention aux CPAS pour la remise à l'emploi de bénéficiaire du revenu d'intégration sociale.
Principe :

Cadre juridique :

Loi du 8 juillet 1976 organique des centres publics d'action sociale ;

Décret du 18 décembre 2003 portant diverses mesures en matière de trésorerie et de dette, d'action sociale et de santé.

Arrêté du Gouvernement wallon du 28 avril 2005 portant exécution, en ce qui concerne l'intégration professionnelle des ayants droit à l'intégration sociale, du décret-programme du 18 décembre 2003.

Principes généraux et objectifs :

Sur base de l'article 60 § 7 de la loi organique des C.P.A.S., lorsqu'une personne doit justifier d'une période de travail pour obtenir le bénéfice complet de certaines allocations sociales, ou acquérir une

expérience professionnelle, le C.P.A.S. peut prendre toutes les dispositions de nature à lui procurer un emploi. Le cas échéant, il fournit cette forme d'aide sociale en agissant lui-même comme employeur pour la période visée. Ainsi, un C.P.A.S. peut engager des bénéficiaires de l'intégration sociale ou de l'aide sociale pour son compte ou pour une mise à disposition de communes, d'associations sans but lucratif, ou d'intercommunales à but social, culturel ou écologique, de sociétés à finalité sociale, d'une association au sens du Chapitre XII de la loi ou d'un partenaire conventionné avec le C.P.A.S.

Dans ce même but, en vertu de l'article 61 de cette même loi, le C.P.A.S. peut recourir à la collaboration de personnes, d'établissements ou de services qui, créés soit par des services publics soit par l'initiative privée, disposent des moyens nécessaires pour réaliser les diverses solutions qui s'imposent, en respectant le libre choix de l'intéressé. Le C.P.A.S. peut supporter les frais éventuels de cette collaboration, s'ils ne sont pas couverts en exécution d'une autre loi, d'un règlement, d'un contrat ou d'une décision judiciaire. Le C.P.A.S. peut également conclure des conventions soit avec un autre C.P.A.S., un autre pouvoir public ou un établissement d'utilité publique, soit avec une personne privée ou un organisme privé.

Public-cible :

Bénéficient des subventions régionales les C.P.A.S. dont les bénéficiaires de l'intégration sociale, ou de l'aide sociale équivalente au revenu d'intégration sociale, sont engagés en application des articles 60 § 7 et 61 de la loi du 8 juillet 1976 précitée.

L'extension aux bénéficiaires de l'aide sociale équivalente au revenu d'intégration sociale, ne vaut que pour les personnes qui, inscrites aux registres des étrangers, bénéficient d'une autorisation de séjour illimité et n'ont pas droit à l'intégration sociale pour raison de nationalité.

Budget et subventionnement :

Lorsqu'il y a une mise à l'emploi d'un bénéficiaire par le CPAS ou un partenaire conventionné, la Wallonie octroie une subvention au C.P.A.S. pour une durée correspondant à la période nécessaire pour l'obtention d'une allocation sociale.

Cette subvention est fixée au maximum à **10 €/jour presté** pour les articles 60§7 et **15€/jour presté** pour les articles 61 et déclaré à l'ONSS APL ou à l'ONSS au cours de l'année précédente.

Les subsides octroyés par la Wallonie sont complémentaires à d'autres subsides octroyés par l'Etat fédéral.

Nombre de service agréé et ou subventionné :
Il fluctue en fonction des années. En moyenne : 246 CPAS subventionnés.

Nombre de dossiers traités (Nombre de bénéficiaires) :
Subvention 2009 – Année de référence 2008 : 6.596 bénéficiaires
Subvention 2010 – Année de référence 2009 : 6.364 bénéficiaires
Subvention 2011 – Année de référence 2010 : 7715 bénéficiaires

Conclusions 2008 -2011 :

Ce système de réintégration des bénéficiaires du revenu d'intégration sociale, c'est-à-dire souvent des personnes précarisées, dans le marché de l'emploi est une façon de lutter contre les exclusions sociales et de renforcer la cohésion sociale. Il s'agit d'une forme d'activation des bénéficiaires qui, dans certains cas, leur permet d'acquérir une expérience professionnelle.

Tuteurs énergie dans les CPAS

Principe :

Une décision du Gouvernement wallon du 28 août 2008, dans le cadre des mesures relatives à l'augmentation du pouvoir d'achat, permet d'accorder aux CPAS une subvention afin d'assurer le financement des fonctions de Tuteurs énergie au sein de ceux-ci.

Cette mesure vise à renforcer les actions des CPAS dans le cadre de la lutte contre l'augmentation du coût de la vie et la préservation du pouvoir d'achat des citoyens.

Ces missions sont notamment :
- D'informer et d'expliquer, lorsqu'ils sont disponibles, les résultats de l'audit énergétique ou des visites à domicile ;
- D'aider à la réalisation d'un « cahier des charges » pour la réalisation des travaux ;
- D'évaluer les moyens financiers nécessaires à la réalisation des travaux ;
- D'aider à la recherche de prestataires de services et ainsi à la compréhension/l'analyse des devis, de négocier les meilleures conditions dans l'intérêt des personnes aidées ;
- D'apporter une aide lors de l'introduction des demandes de primes, prêts ou allocations ;
- De faire appel aux institutions existantes qui pourraient intervenir (AIS, EFT, IDESS…) ;
- D'aider à concevoir les petits travaux d'aménagement qui sont à la portée de l'occupant des lieux ;
- D'informer les occupants sur les contrats de fourniture de gaz et d'électricité ;
- …

L'accompagnement vise également à assister les locataires dans leurs démarches vis-à-vis des propriétaires pour l'amélioration du bâtiment lorsque ces locataires sont à l'initiative du projet de rénovation.

Nombre de services (CPAS) subventionnés : 44 CPAS, représentant 48 emplois de Tuteurs énergie (chiffres pour l'année 2011).

Nombre de dossiers traités :

2008 (4 mois)	2009	2010	2011
	3.399	3.025	5.304

Conclusions 2008 -2011

L'utilité des Tuteurs énergie au sein des CPAS semble indéniable au vu des résultats positifs engendrés. Ceux-ci sont cependant confrontés à certaines difficultés : difficulté de reconnaissance au sein du CPAS de la problématique de l'énergie, difficulté de combiner les connaissances techniques et sociales, manque de temps de supervision et d'Intervision afin de prendre de la distance vis-à-vis des usagers, de mettre au point des standards d'intervention et de modéliser des procédures, difficulté de coordination avec certains partenaires(sociétés de logement par exemple), manque de reconnaissance du statut au sein du CPAS et de pérennisation de la fonction (actuellement, points APE jusqu'au 31/12/2014

Conclusions générales 2008 -2011

Ces trois années 2008-2011 ont été celles d'une dégradation sociale et économique généralisée dans la zone euro avec une restriction des moyens des autorités publiques consécutives à la crise financière et un ralentissement économique. Cette dégradation a aussi été accompagnée d'une

hausse du coût de l'énergie qui a pesé sur le pouvoir d'achat des ménages et surtout sur les ménages ayant les plus faible revenus. Toutefois la Belgique et la Wallonie ont pu compenser partiellement cette dégradation en raison de la présence d'une sécurité sociale protectrice et de services sociaux développés.

Il peut toutefois être observé que plus de personnes se sont présentées pour obtenir une aide des services et que ces personnes présentent de plus en plus de difficultés à obtenir les biens indispensables à une vie digne.

Cela étant les services sociaux agrées par la Wallonie ont montré toute leur utilité.

En guise de conclusion plus générale et de perspective d'avenir, il convient de rappeler que la politique sociale est un investissement à long terme. Elle permet le développement d'une société équilibrée et respectueuse des citoyens, de tous les citoyens. L'inaction sociale est une fausse économie car elle génère des coûts encore plus grands que ceux de l'action sociale et une société inéquitable et appauvrie.

De plus, l'altération des capacités des individus rejetés dans la précarité constitue un frein important pour leur participation à la vie sociale et économique.
Or, les dernières études de la Fédération des CPAS sur l'exclusion du chômage démontre un transfert accru de charges sans augmentation des moyens .Compte tenu des effets attendus d'une récession voire d'une stagnation du PIB, le nombre de personnes dépendant des services sociaux va s'accroître.

Un des défis majeurs est donc de maintenir les services sociaux et principalement les CPAS en état de répondre aux besoins de la population surtout en période de crise et sauvegarder la pleine et entière capacité des personnes et de leur famille à participer aux enjeux sociaux et économiques de la Wallonie.

Il s'agit donc pour les pouvoirs publics dans un contexte financier difficile d'**assurer aux services sociaux publics et privés agréés des moyens suffisants pour faire face à ces missions et développer la qualité de leur intervention**.

Parallèlement, l'ambition d'assurer équitablement la couverture complète de chaque sous-région de Wallonie par des services spécialisés devrait alimenter la réflexion sur le **droit à un même service pour chaque citoyen à une distance raisonnable**.

En ce sens, on peut relever la **mutualisation des ressources** de plusieurs CPAS en vue de créer avec le soutien de la Wallonie des services d'urgence sociale dans les zones rurales ou semi rurales, d'organiser la lutte contre le surendettement, de favoriser l'insertion socio-professionnelle.
La même logique de mutualisation devrait être partagée par les services sociaux privés.

Dans le contexte d'une société vieillissante, l'Europe et la Wallonie continueront à connaître un flux migratoire. **Un des autres défis est donc l'intégration harmonieuse des migrants**. La création d'un parcours d'intégration, la mise en œuvre de politiques de diversité et de non-discrimination sont autant d'actions à mettre en œuvre. Une telle politique est d'ailleurs de nature à garantir à ces personnes des revenus dignes.

Le soutien des CPAS et des associations à destination des jeunes belges et migrants notamment pour leur permettre soit de poursuivre des études soit de développer leurs capacités sociales soit d'accéder à l'emploi doit donc être fortement encouragée.

2.2. En Commission Communautaire française

Les Principes généraux régissant les services sociaux, les services de santé et les services d'aide aux personnes handicapées agréés par la Commission communautaire française sont les suivants :

1. L'adaptation des services sociaux aux besoins

Dans le secteur de l'action sociale

Il existe à **Bruxelles** une programmation de facto des divers types de services qui sont mis à disposition des personnes âgées. La Communauté flamande dispose d'un règlement de programmation ainsi que du Koepelplan Brussel. La Commission communautaire française, quant à elle, possède une programmation des maisons communautaires, de l'accueil familial, des services de télé-vigilance et des services d'aide aux personnes âgées maltraitées. En ce qui concerne la Commission communautaire commune, celle-ci réglemente les maisons de repos «bicommunautaires »» et règle les services d'aide à domicile. Toutes ces entités qui mettent en œuvre la programmation fédérale en matière de maisons de repos et de soins dans le cadre de la politique de santé, sont, en outre, tenues à un moratoire national sur les lits des maisons de repos convenu avec les autorités fédérales.

Depuis 2010, la Commission communautaire commune, les autorités flamandes et la Commission communautaire française se concertent sur une programmation pour le **territoire bilingue de Bruxelles-Capitale**. Une telle programmation concerne les structures de maintien à domicile et de logement des personnes âgées.

En mai 2011, la Vrije Universiteit Brussel a été chargée de mener une mission de recherche sur la « mise en place d'une programmation globale relative aux structures de maintien à domicile et de logement des personnes âgées à Bruxelles». Cette étude propose une série de recommandations destinées à apporter une offre concertée visant à optimaliser et augmenter l'efficacité des soins et services dans le contexte bruxellois.

Dans le secteur des soins de santé :

L'autorité régionale détermine, tous les 5 ans, une programmation incluant un nombre de services par secteur en tenant compte de l'offre existante et des besoins constatés d'un point de vue sociologique, géographique, épidémiologique et socio-économique.

Dans le secteur de l'aide aux personnes handicapées
La Commission communautaire française a créé en 2007 un observatoire de l'accueil et de l'accompagnement de la personne en situation de handicap en Région bruxelloise.

Cet Observatoire a pour missions :
1° de dresser un inventaire permanent :

- des politiques menées et des informations en matière de handicap;
- des institutions et des associations compétentes en matière de handicap;

2° de réaliser ou de faire réaliser, à la demande du Ministre compétent ou d'initiative, des études et des recherches scientifiques en matière de handicap et de tenir un inventaire des études et des recherches concernant les personnes en situation de handicap. Afin de remplir cette mission, tous les rapports des études ou des recherches concernant la personne en situation de handicap réalisées à l'initiative de la Commission communautaire française sont transmis à l'Observatoire ;

3° de faire des recommandations se basant sur l'évaluation des politiques menées et des besoins tant dans le cadre de l'aide aux personnes handicapées de la Commission communautaire française que dans le cadre des politiques menées par les différents niveaux de pouvoir et des acteurs de terrain en Région bruxelloise;

4° de promouvoir et de faire connaître toute initiative dont l'objectif est d'améliorer la situation des personnes en situation de handicap;

5° d'établir annuellement un rapport d'activités. Ce rapport comporte les travaux réalisés, les inventaires et les recommandations. Il est transmis au Conseil consultatif et à l'Assemblée de la Commission communautaire française.

2. Égalité d'accès pour tous

Les Régions et Communautés ont entrepris ces dernières années un vaste travail législatif en vue de transposer les Directives européennes fixant un cadre en matière de lutte contre les discriminations.
Pour la COCOF, il s'agit :

- du décret du 22 mars 2007 relatif à l'égalité de traitement entre les personnes dans la formation professionnelle, modifié par décret du 5 juillet 2012
- du décret du 9 juillet 2010 relatif à la lutte contre certaines formes de discrimination et à la mise en œuvre du principe de l'égalité du traitement

Chacun de ces textes établit une liste de motifs sur base desquels les différences de traitement peuvent constituer des discriminations.

Pour la COCOF, il s'agit de la prétendue race, la couleur de peau, l'ascendance, l'origine nationale ou ethnique, la nationalité, l'âge, l'orientation sexuelle, l'état civil, la naissance, la fortune, les convictions religieuses ou philosophiques, les convictions politiques, les convictions syndicales, la langue, l'état de santé actuel ou futur, le handicap, les caractéristiques physiques ou génétiques, l'origine sociale, le genre, tout autre motif de discrimination.

Chacun de ces textes établit une liste de comportements interdits car ils constituent ou doivent être assimilés à des discriminations, conformément au prescrit des Directives européennes. Ces comportements sont susceptibles de poursuite devant les tribunaux civils. Par ailleurs, certains textes prévoient également un dispositif pénal en vue de réprimer certains comportements discriminatoires.
Pour la COCOF, il s'agit : de la discrimination directe, de la discrimination indirecte, de l'injonction de discriminer, du harcèlement, du harcèlement sexuel, du refus d'aménagement raisonnable pour personnes handicapées.

Les champs d'application couverts par les différents textes au niveau de la COCOF sont : l'orientation, la formation, l'apprentissage, le perfectionnement et le recyclage professionnels, y compris la diffusion d'information y afférent,le transport scolaire, la gestion des bâtiments scolaires, les infrastructures communales, provinciales, intercommunales et privées concernant l'éducation physique, les sports, la vie en plein air, le tourisme, la promotion sociale, la politique de santé, l'aide aux personnes, l'accès aux biens et services, l'accès et la participation aux activités économiques, sociales, culturelles ou politiques.

3. Conditions de participation des prestataires non publics à la fourniture des services sociaux

Dans le secteur de l'action sociale et des soins de santé

Tout prestataire non public qui participe à la fourniture de services sociaux est agréé par la Commission communautaire française s'il répond aux conditions suivantes :

- être constitué sous forme d'association sans but lucratif, dont l'objet social correspond au secteur pour lequel il sollicite son agrément;

- exercer ses activités principalement sur le territoire de la Région de Bruxelles-Capitale;
- désigner, parmi les membres de l'équipe, une personne chargée de la coordination générale du service ambulatoire;
- être accessible à tous et remplir ses missions sans aucune discrimination;
- respecter les règles de déontologie et de secret professionnels en vigueur dans le secteur auquel il appartient;
- garantir la confidentialité dans l'organisation de ses locaux;
- mener une démarche d'évaluation qualitative;
- respecter les conditions sectorielles d'agrément et les normes d'agrément;
- souscrire une assurance en responsabilité civile professionnelle;
- souscrire une assurance en responsabilité des administrateurs

Dans le secteur de l'aide aux personnes handicapées

L'autorité régionale fixe de manière distincte pour chaque type de centres, d'entreprises ou de services spécifiques aux personnes handicapées des normes d'agrément qui portent sur :

1° l'infrastructure;
2° l'organisation et le fonctionnement;
3° le nombre et le niveau de qualification du personnel ainsi que sa formation continuée;
4° le nombre et le type de personnes handicapées;
5° la gestion, la comptabilité et les rapports à établir par le prestataire de services;
6° les relations entre le prestataire de services et la personne handicapée.

Les Mécanismes généraux d'octroi des aides publiques aux prestataires de services agréés.

L'aide financière accordée par l'autorité régionale est fonction :
- du nombre d'équivalent temps plein nécessaire à l'accomplissement de la mission du prestataire de service
- du pourcentage des frais de personnel octroyés pour les frais de formation continuée des travailleurs,
- de montants maximaux admissibles pour les frais de fonctionnement (fonctionnement du service ainsi que les frais liés aux tâches de gestion comptable et administrative),
- des frais d'infrastructures,
- de l'investissement en matière d'équipement.

4. Mécanismes de contrôle pour s'assurer de la qualité des services fournie par les prestataires non publics

Tout prestataire de services agréé par la Commission communautaire française est soumis à des contrôles et inspections réguliers menés par des agents habilités chargés de vérifier le respect des conditions d'agrément et des normes imposées. Ils peuvent consulter sur place les pièces et documents nécessaires à l'accomplissement de la mission dont est chargé le prestataire de services.
L'agrément est par ailleurs soumis à une démarche d'évaluation qualitative qui peut aboutir à son retrait si les indicateurs de qualité ne sont pas satisfaisants. Ainsi, le prestataire de services doit, dans le respect des dispositions du décret, mener une démarche qui vise l'amélioration du service proposé aux bénéficiaires et à la population dans son ensemble en termes de prévention, d'aide ou de soin. Sans préjudicie de la loi sur le bien-être au travail et des prérogatives des organisations syndicales, la démarche d'évaluation qualitative est considérée comme un processus permanent et structuré d'autoévaluation qui mobilise l'ensemble des ressources internes du prestataire de services agréé.

Les membres du personnel participent directement à la démarche d'évaluation qualitative selon des modalités fixées, en concertation avec les représentants légaux des travailleurs. Le Conseil d'administration s'implique également dans la démarche d'évaluation qualitative selon les modalités qu'il détermine. Enfin, dans le respect des règles déontologiques générales propres à chaque secteur, les bénéficiaires peuvent être consultés, directement ou indirectement, à propos de la démarche d'évaluation qualitative.

La démarche d'évaluation qualitative est formalisée par la remise au Collège d'un projet établi, pour trois ans, par le prestataire de services.

Ce projet comporte :
- le choix motivé du ou des thèmes propres à son secteur et liés à ses missions ;
- une analyse de l'environnement du service ou de l'organisme en relation avec ce ou ces thèmes;
- les objectifs visés par la démarche d'évaluation qualitative;
- les modalités de mise en œuvre de ces objectifs;
- les modalités d'évaluation de la mise en œuvre de la démarche d'évaluation qualitative déterminés par le prestataire de services.

5. Consultation des usagers dans l'élaboration des politiques

Au sein du Conseil consultatif bruxellois francophone de l'Aide aux Personnes et de la Santé
Le Conseil consultatif est composé de quatre sections :

1° la section "Aide et soins à domicile"
2° la section "Services ambulatoires"
3° la section "Hébergement"
4° la section "Personnes handicapées"

Chaque section est composée de membres effectifs et de membres suppléants soit :

1° de représentants des pouvoirs organisateurs;
2° de représentants des travailleurs des secteurs;
3° de représentants des utilisateurs ou des publics cibles;
4° d'experts.

D'initiative ou à la demande de l'autorité régionale, chaque section a pour mission de donner des avis sur les questions qui relèvent de ses compétences. Son avis est requis sur les projets de décrets et leurs arrêtés d'exécution ainsi que lorsqu'une norme prescrit l'obtention de son avis pour un prestataire de service agréé par le Collège.

Au sein des réseaux

Le réseau a pour objectif l'amélioration du soin, de l'action sociale ou de l'aide aux familles. Le réseau répond à un besoin des bénéficiaires sur un territoire défini. Il prend en compte l'environnement sanitaire et social ainsi que l'offre de services existante.
Les réseaux sont organisés sur base géographique et s'organisent autour d'une ou plusieurs thématiques. Ils sont limités dans le temps.
Le réseau constitue une forme organisée d'action collective sur la base d'une démarche volontaire de coopération, unissant des services ambulatoires, des services d'accompagnement pour personnes handicapées et d'autres associations, dans des relations non hiérarchiques.

La finalité du réseau est d'améliorer la coordination, la complémentarité, la pluridisciplinarité, la continuité et la qualité des prestations et activités en faveur du bénéficiaire et/ou de la population du territoire desservi.

En fonction de leur objet, les réseaux mettent en œuvre des activités de soins, d'action sociale ou d'assistance familiale.

Au sein des maisons médicales

Elles peuvent assurer des fonctions de santé communautaire, à savoir développer des activités coordonnées avec l'ensemble du réseau psycho-médico-social et créer des conditions de participation active de la population à la promotion de sa santé. De même, elles sont encouragées à assurer des fonctions d'observatoire de la santé en première ligne, en recueillant des données permettant une description épidémiologique de la population desservie, l'évaluation des objectifs et l'auto-évaluation des activités de la maison médicale en vue d'une amélioration de la qualité des soins.

La Typologie des services sociaux, des services de santé et des services d'aide aux personnes handicapées agréés par la Commission communautaire française apparaît de la façon suivante :

1. Dans le secteur de **l'aide sociale**

Les centres de planning familial : 27 centres agréés

Le centre de planning familial exerce les missions suivantes :

1° l'accueil, l'information et l'accompagnement des personnes, des couples et des familles.
2° le développement d'une politique de prévention en coordination avec les acteurs sociosanitaires.

Les services d'aide à domicile : 7 services agréés

Le service d'aide à domicile exerce les missions suivantes :

1° permettre aux bénéficiaires de mieux vivre à domicile, d'acquérir et de préserver leur autonomie, avec le soutien d'aides familiaux, seniors et ménagers, en concertation avec l'environnement familial et de proximité et les autres intervenants professionnels s'il échoit;

2° accorder l'aide par priorité à ceux qui en ont le plus besoin et qui sont les plus démunis sur le plan financier, de la santé physique ou psychique ainsi que sur le plan social.

Les maisons d'accueil : 15 services agréées

La maison d'accueil a pour missions l'accueil, l'hébergement et l'aide psychosociale adaptée aux bénéficiaires afin de promouvoir leur autonomie, leur bien-être physique et leur réinsertion dans la société. On entend par bénéficiaires : les adultes, les mineurs émancipés, les mères mineures, les mineures enceintes, caractérisés par une fragilité relationnelle, sociale ou matérielle se trouvant dans l'incapacité de vivre de manière autonome, ainsi que les enfants à charge qui les accompagnent. On entend par enfants à charge, les enfants dont les bénéficiaires s'occupent habituellement.

Les services d'accueil de jour pour personnes âgées : 3 centres agréés

Un service d'accueil de jour (SAJ) est un service destiné à accueillir en journée des personnes âgées d'au moins 60 ans afin de les aider à maintenir ou à rétablir un lien social, à favoriser leur autonomie et à les guider dans leurs démarches socio-sanitaires.

Ce service est destiné prioritairement aux personnes âgées ne résidant pas dans un établissement résidentiel destiné aux personnes âgées.
Les services de télévigilance : 2 services agréés

Un service de télévigilance (STV) est un service offrant une assistance à distance et une possibilité d'intervention urgente 24 heures sur 24 heures aux personnes âgées d'au moins 60 ans.
2.Dans le secteur des **soins de santé**

Les services de santé mentale : 23 agréés

Le service de santé mentale exerce les missions générales suivantes :

1° offrir un premier accueil, analyser et, le cas échéant, orienter la demande de tout bénéficiaire;

2° poser un diagnostic et assurer le traitement psychiatrique, psychologique, psychothérapeutique et psychosocial de problèmes de santé mentale. Le diagnostic et le traitement de problèmes de santé mentale intègrent les aspects médicaux, psychiatriques, psychologiques et sociaux. Ils visent essentiellement à améliorer le bien-être psychique du patient dans ses milieux habituels de vie.

3° organiser, élaborer ou collaborer à des activités de prévention.

Les services en matière de toxicomanies : 15 agréés

Le service actif en matière de toxicomanies exerce les missions d'accueil et d'information pour les usagers de drogues, leur famille et leur entourage et au moins une des missions générales suivantes :

1° l'accompagnement
2° les soins
3° la prévention

Le service actif en matière de toxicomanies peut, en outre, exercer une ou des missions particulières suivantes :

1° La réinsertion
2° La liaison entre différents intervenants ou entités qui accueillent des usagers de drogues
3° La formation

Les maisons médicales : 37 agréées

La maison médicale exerce, dans le cadre du développement des soins de santé intégrée, les missions suivantes:

1° dispenser des soins de santé primaires, soit des soins de première ligne dispensés en consultation et à domicile et le suivi préventif;
2° assurer des fonctions d'accueil.

Les centres de coordination de soins et de services à domicile : 6 agréés

Le centre de coordination de soins et de services à domicile :

1° organise, à la demande du bénéficiaire ou de son représentants et en collaboration avec son médecin traitant, l'ensemble des soins et des services nécessaires. à son maintien à domicile;
2° organise à la demande du bénéficiaire ou de son représentant et en collaboration avec son médecin traitant, l'ensemble des soins et des services permettant d'assurer la continuité des soins et des

services ainsi qu'une surveillance vingt-quatre heures sur vingt-quatre et sept jours sur sept, afin d'éviter ou de raccourcir l'hospitalisation.

Les services de soins palliatifs et continués : 6 agréés

Le service de soins palliatifs et continués exerce tout ou parties des missions suivantes :

1° organiser et coordonner, à la demande du patient ou de son représentant, en collaboration avec son médecin traitant et en liaison notamment avec l'équipe hospitalière et tout centre de coordination, l'ensemble des soins et des services à domicile permettant d'assurer la continuité des soins et des services ainsi que la surveillance vingt-quatre heures sur vingt-quatre et sept jours sur sept;
2° organiser et dispenser des soins palliatifs et continués, en étroite collaboration avec le médecin traitant et toute coordination;
3° assurer l'organisation et les interventions psychosociales, notamment psychiatriques que nécessite un patient atteint d'une maladie à pronostic fatal ainsi que le soutien à son entourage, en étroite collaboration avec le médecin traitant;
4° sensibiliser, assurer la formation, théorique ou pratique, la formation continue ou la supervision d'intervenants professionnels ou bénévoles, extérieurs au service amenés à traiter ou à soutenir les patients atteints d'une maladie à pronostic fatal et leur entourage.

Les centres d'accueil téléphonique : 2 agréés

Le centre d'accueil téléphonique exerce les missions suivantes :

1° organiser, vingt-quatre heures sur vingt-quatre et tous les jours de l'année, un accueil téléphonique et, le cas échéant, une orientation qui répond le mieux à la situation ou aux difficultés qui ont motivé l'appel;
2° être téléphoniquement accessible à la population;
3° assurer la supervision de l'activité des écoutants.

Les centres de soins de jour : 2 agréés

Les centres d'accueil de jour offrent une structure d'accueil, pendant la journée, à des personnes âgées vivant à domicile et qui bénéficient au sein du centre des aides et soins appropriés à leur perte d'autonomie. Ce centre est implanté dans une maison de repos ou en lien avec une maison de repos.

1. Dans le secteur de **l'aide aux personnes handicapées**

Les centres de réadaptation fonctionnelle : 12 agréés

Les centres de réadaptation fonctionnelle ont pour mission l'amélioration des fonctions motrices sensorielles ou psychiques par la mise en œuvre de techniques médicales et paramédicales spécifiques à chaque catégorie de personnes handicapées. Dans ce cadre, ils offrent une prise en charge globale tant au niveau physique que psychologique et social.

Les services d'accompagnement : 21 agréés

Ils ont pour missions :

1° lorsqu'ils accueillent des enfants handicapés en bas âge et leur famille, parfois même avant la naissance, d'assurer une aide précoce, soit une aide éducative, psychologique et sociale à l'enfant et à sa famille ainsi qu'une aide technique par un soutien individualisé à domicile et dans les différents lieux de vie;

2° lorsqu'ils accompagnent l'enfant handicapé en âge scolaire, d'assurer un prolongement à l'aide précoce élaborée pour les enfants en bas âge en accentuant petit à petit la relation enfant-famille-école et d'encadrer la scolarité au niveau psychologique, identitaire et relationnel;
3° lorsqu'ils accompagnent l'adulte handicapé, de l'aider à conserver ou à acquérir son autonomie par un soutien individualisé dans les actes de la vie quotidienne. Ils orientent la personne handicapée vers les services qui peuvent lui être utiles et l'accompagnent dans ses démarches auprès de ces services sans pour autant se substituer à l'action de ceux-ci;
4° lorsqu'ils assurent le placement familial, d'organiser conjointement à l'accompagnement, la recherche et la sélection de familles d'accueil.

De plus, ils participent à une sensibilisation collective au handicap des professionnels et de toute personne en relation avec la personne handicapée.

Les entreprises de travail adapté : 13 agréées

Les entreprises de travail adapté ont pour objectifs prioritaires :

1° d'assurer à toute personne handicapée un travail utile et rémunérateur;
2° de permettre à la personne handicapée de se perfectionner professionnellement et de valoriser ses compétences.

Les centres de jour : 29 agréés

Les centres de jour ont pour mission d'accueillir en journée, y compris le repas de midi, les personnes handicapées en assurant une prise en charge médicale, psychologique, paramédicale, sociale et éducative qui vise à leur permettre d'atteindre ou de préserver la plus grande autonomie possible et un niveau optimal d'intégration familiale et sociale.

Les centres de jour accueillent soit des personnes handicapées mineures scolarisées ou non, soit des personnes handicapées majeures qui ne peuvent s'intégrer dans un lieu de formation ou de travail, adapté ou non.

Les centres d'hébergement : 31 agréés

Les centres d'hébergement ont pour mission d'accueillir les enfants ou les adultes handicapés, en soirée, la nuit, y compris le repas du matin ainsi que la journée lorsque l'activité de jour habituelle n'est pas organisée ou que la personne handicapée ne peut s'y rendre.

Les services d'interprétation pour sourds : 2 services agréés

Ils ont pour missions:
1° d'établir une liste d'interprètes en langue des signes ou pour toute autre aide à la communication; cette liste est approuvée par le Collège; seuls ces interprètes sont reconnus pour assurer des prestations d'interprétariat remboursables par les Services du Collège ;
2° d'établir, avec chaque interprète, une convention qui garantit aux sourds un service de qualité pour un prix défini;
3° d'organiser la formation continuée des interprètes;
4° d'assurer un rôle de médiation entre les sourds
et les interprètes;
5° de gérer les demandes des sourds en matière d'interprétation par un service d'appels centralisés

2.3. En Région flamande

(information communiquée le 14 octobre 2014)

“La politique en matière de bien-être et de santé de la Communauté flamande doit aspirer à une Flandre inclusive. Ce Gouvernement flamand a l’ambition de mener une politique sociale qui apporte un soutien maximum à tous les Flamands et leur permet de participer pleinement à la société.” C’est un extrait du nouveau programme de gouvernement de cette Région (2014-2019), dont les chapitres pertinents sont envoyés en annexe de cette contribution. Dans le document, qu’il m’est demandé de transmettre à l’intention du CEDS, on trouvera une information détaillée sur un nombre de réformes structurelles qui ont été menées dans ce but pendant l’ancienne législature, ainsi qu’une description des mesures envisagées pendant cette nouvelle législature.

RESC 14§2 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 14§2 of the Charter on the ground that it has not been established that measures are taken to encourage individuals and voluntary organisations to participate in the establishment and running of social welfare services.

319. Additional information is to be provided in the next National Report.

RESC 14§2 IRELAND

The Committee concludes that the situation in Ireland is not in conformity with Article 14§2 of the Charter on the grounds that it has not been established that the quality of social services delivered by non state providers meets users’ needs.

320. The representative of Ireland provided the following information in writing:

The Charities Regulatory Authority (CRA) was established on 16 October 2014, under the terms of the Charities Act 2009. The CRA is an independent agency of the Department of Justice and Equality. Its functions under the Charities Act are as follows:

(a) increase public trust and confidence in the management and administration of charitable trusts and charitable organisation
(b) promote compliance by charity trustees with their duties in the control and management of charitable trusts and charitable organisations
(c) promote the effective use of the property of charitable trusts or charitable organisations
(d) ensure the accountability of charitable organisations to donors and beneficiaries of charitable gifts, and the public,
(e) promote understanding of the requirement that charitable purposes confer a public benefit
(f) establish and maintain a register of charitable organisations(g) ensure and monitor
compliance by charitable organisations with this Act,
(h) carry out investigations in accordance with the Act
(i) encourage and facilitate the better administration and management of charitable organisations by the provision of information and advice, including in particular by way of issuing (or, as it considers appropriate, approving) guidelines, codes of conduct, and model constitutional documents,
(j) carry on such activities or publish such information (including statistical information) concerning charitable organisations and trusts as it considers appropriate,
(k) provide information (including statistical information) or advice, or make proposals, to the Minister on matters relating to the functions of the Authority.

The CRA also takes on the functions of the Commissioners of Charitable Donations and Bequests for Ireland.

The key priority of the CRA at present will be compiling the Register of Charities. Its other statutory functions will be introduced on a phased
basis.
The website of the CRA is www.charitiesregulatoryauthority.ie.

Supports for the Community & Voluntary Sector
The Department of The Environment, Community & Local Government has lead responsibility for developing the relationship between the State and the Community and Voluntary Sector. This includes implementation of the White Paper on a Framework for Supporting Voluntary Activity and for developing the relationship between the State and the Community and Voluntary Sector.
The White Paper committed the Government to provide a range of funding measures to support the Community and Voluntary Sector. The new 'Scheme to Support National Organisations (SSNO) in the Community and Voluntary sector' commenced in 2008. The Scheme aims to provide multi-annual funding to national organisations towards core costs associated with the provision of services. The first Scheme ran until 2011, with the second scheme running until 30 June 2014. The current scheme commenced on 1 July 2014 and will run for a period of 2 years. Priority is given under this scheme to supporting national organisations which provide coalface services to disadvantaged target groups. Contracts were entered into with 55 national organisations and the estimated cost of the scheme is in excess of €8m over the 24 month period of the scheme.
In recognition of the challenges faced by the member organisations of the Community & Voluntary Pillar in contributing to the social partnership process, the Department also provides funding to the 17 member organisations of the C&V Pillar. Social Partners Funding allocation in 2014 is almost €600,000.

http://www.environ.ie/en/Community/CommunityVoluntarySupports/SchemetoSupportNationalOrganisations/

http://www.environ.ie/en/Community/CommunityVoluntarySupports/SocialPartnership/
Community Services Programme
The purpose of the Community Services Programme is to support non-governmental community businesses and social enterprises by funding local services and employment opportunities where public and private sector services are lacking, either through geographical or social isolation. The programme is a source of economic and social regeneration for local communities and enables the utilisation of community assets in the provision of quality services and employment opportunities to those who might otherwise be unable to access them. The programme supports the delivery of services under three broad categories:

- Management and Supervision of Community Halls and Facilities,
- Delivering Community Services, and
- Community Enterprises.

Expenditure across the Programme in the period 2009 – 2014 was approximately €45 million per annum. In 2014, some 405 contracts were operational with non-governmental organisations. The programme supports in the region of 2,800 employees in the provision of a broad range of services.

Further information on the Community Services Programme is available through this links:
http://www.welfare.ie/en/pages/community-services-programme.aspx
https://www.pobal.ie/FundingProgrammes/CommunityServicesProgramme/Pages/CSP%20Home.aspx or

RESC 14§2 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 14§2 of the Charter on the ground that it has not been established that the conditions under which non-public providers take part in the provision of welfare services are adequate.

321. Additional information is to be provided in the next National Report.

ARTICLE 23 – RIGHT OF THE ELDERLY TO SOCIAL PROTECTION

RESC 23 FINLAND

The Committee concludes that the situation in Finland is not in conformity with Article 23 of the Charter on the grounds that:

- *it has not been established that there is an adequate legal framework prohibiting discrimination on grounds of age;*
- *the legislation allows practices leading to a part of the elderly population being denied access to informal care allowances or other alternative support;*
- *insufficient regulation of fees for service housing and service housing with 24-hour assistance, combined with the fact that the demand for these services exceeds supply, does not meet the requirements of Article 23 of the Charter insofar as these:*
- *Create legal uncertainties to elderly persons in need of care due diverse and complex fee policies. While municipalities may adjust the fees, there are no effective safeguards to assure that effective access to services is guaranteed to every elderly person in need of services necessitated by their condition.*
- *Constitute an obstacle to the right to the provision of information about services and facilities available for elderly persons and their opportunities to make use of them as guaranteed by Article 23 of the Charter (Complaint 71/2011).*

Second and Third gropunds of non-conformity

322. The representative from Finland informed that the Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons ("Act on Services for Older Persons") which entered into force on 1 July 2013 imposes additional obligations on local authorities in order to improve the situation of the elderly population. In particular:

- the municipality must annually evaluate the adequacy and quality of social welfare services needed by older persons,

- local authorities must provide social services for their elderly population so that the services in terms of content, quality and extent conform to what is required by the needs of this population in the municipality,
- local authorities must provide advice services that support the wellbeing, health, functional capacity and independent living of the elderly population,
- an older person's need for services will be investigated together with this person and, if necessary, with his or her family members or other appropriate persons,
- social services are granted to a client based on an investigation of service needs,
- the fees charged to the clients for the services are determined under the Act on client fees in social welfare and health care,
- long-term care and attention for elderly persons must be principally provided in these persons' private home or other home-like place of residence.

323. Furthermore, the representative from Finland informed that the primary method of providing long-term care and attention could be informal care support, if the person concerned has a family member or other person close to him or her who is willing and able to act as an informal caregiver. In 2013, a total of 42,300 people received informal care support, 67% were 65 years or older.

324. Finally, the representative from Finland stated that in March 2014 a working group appointed by the Ministry of Social Affairs and Health completed a proposal for a National Development Programme for the Support of Informal Care. This Programme outlines the strategic goals for the promotion of informal care as well as legislative and other developments measures for 2014-2020. Several major projects to reform social welfare and health care legislation are currently under way in Finland.

325. Following the ECSR decision of 4 December 2012 (Complaint 71/2011), the Ministry of Social Affairs and Health has set up a working group to develop proposals for legislation on user charges in housing service and in-home services as well as the costs of services provided at home. The relevant government bill will be debated in the Parliament in the autumn 2014.

326. Since the report on the follow-up of the Complaint 71/2011 will be presented soon by Finland, the Governmental Committee decided not to open a debate on the situation in Finland as regards these two grounds and decided to await the next assessment of the ECSR.

<u>First, fourth and fifth grounds of non conformity</u>

327. The representative of Finland provided the following information in writing:

Legislative framework

In its previous conclusion (Conclusions 2009) the Committee considered that the interplay of the main anti-discrimination provisions laid down in the Constitution, the NonDiscrimination Act and the Penal Code, prohibited age-discrimination on a sufficiently wide variety of grounds outside employment, namely education and the provision of services. It nevertheless recalled that the prohibition of discrimination based on age should be progressively expanded to include the areas of social security, health care and goods. The Committee notes that the report does not provide information on this. Therefore,

the Committee concludes that it has not been established that there is an adequate legal framework prohibiting discrimination on grounds of age.

Age-discrimination is expressly forbidden in Finland both by virtue of Section 6 of the Constitution of Finland (73111999) *(No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person)* and by virtue of Section 6 of the Non-Discrimination Act (21/2004) *(Nobody may be discriminated against on the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics).*

Any discrimination, direct or indirect, on the basis of age is widely prohibited in Finland. Section 6, paragraph 2, of the Constitution of Finland expressly prohibits discrimination on the basis of age. This prohibition applies to exercise of all public functions, including in the spheres of social security, health care and other provision of goods and services by the public authorities. This provision is also considered to be of interpretational value in relations between private parties (e.g. private companies and individuals). Furthermore the criminalization of discrimination in chapter 11, section 11 of the Penal code *applies inter alia* to the exercise of public functions, industrial and commercial activities and the exercise of professions. Thus the scope of application of this provision covers all public and private activities e.g. in the above mentioned areas of social security, health care and provision of goods and services. Chapter 47, section 3 of the Penal Code criminalizes discrimination on the grounds of e.g. age in employment, including by both public and private employers.

Prohibitions of discrimination have also been laid down in several acts that cover specific areas such as social security, health care and consumer protection. Thus Chapter 2, Sections 1 and 2 of the Consumer Protection Act (38/1978) prohibit discriminatory marketing to consumers. Section 3 of the Act on the Status and Rights of Patients (78511992) provides that every person who is permanently resident in Finland is entitled to health and medical care without discrimination. Section 4 of the Act on the Status and Rights of Recipients of Social Welfare (812/2000) provides that the recipients of social welfare are to be treated without discrimination.

As regards the on-going reform of the equal treatment legislation the Government would like to provide the Committee the following information. The Government proposal for new equal treatment legislation was passed to the Parliament on 3 April 2014. The proposal includes a proposition for a completely renewed Equal Treatment Act *(yhdenvertaisuuslaki).* The proposed Act has a very broad scope of application: it would be applicable to all public and private activities, the only exceptions being activities that take place in the realm of private and family life as well as the practice of religion. The Act would expressly prohibit discrimination on a number of grounds, including age. A person whose right to equal treatment has been breached would have the right to compensation. A new authority, the Equal Treatment Ombudsman, would be established with a view to overseeing compliance with the new Act (including with regard to the prohibition of age discrimination). In the area of employment compliance with the Act would however be overseen by the industrial safety authorities.

The objective of the new act is to provide more comprehensive protection against discrimination. People would have equal protection against discrimination irrespective of whether discrimination is based on ethnic origin, age, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristic.

The Act on the Status and Rights of Patients (785/1992) and the Act on the Status and Rights of Social Welfare Clients (812/2000) also stipulate that patients and social welfare clients have the right to high-quality social welfare and health care services without any discrimination. Furthermore, the Health Care Act includes a provision (Section 1 0) on universal access to services, according to which local authorities and joint municipal authorities for hospital districts shall ensure that services are

available and universally accessible in their area to the residents that they are responsible for providing services.

The objective of the Act on Supporting the Functional Capacity of the Older Population and on Social and Health Services for Older Persons (980/2012, hereinafter the "Act on Services for Older Persons") is to ensure that local authorities are responsible for supporting the wellbeing, health, functional capacity and independent living of the older population and for securing the social and health care services needed by older persons in the municipality. The Act states that services must be provided so as to be available to the older population in the municipality on an equal basis.

*The Committee asked whether there exist safeguards to prevent the arbitrary deprivation of autonomous decision-making by elderly persons. It notes from the report that in 2010, the Ministry of Social Affairs and Health set up a working group to consider "the right to selfdetermination of social welfare and health care clients". The preliminary proposals of the working group deal, in particular, with the issue of the use of restrictive measures in the voluntary care of persons with memory disorders, brain damage or intellectual disabilities****. The Committee would like to receive more information about the follow-up of the working group's proposals, in particular whether any new legislation was adopted and how it prevents abuse of the autonomous decision-making by elderly persons. In this respect, the Committee refers to its statement of interpretation in the General Introduction****.*

The objective of the Act on Services for Older Persons, which entered into force on 1 July 2013, is to strengthen the older persons' opportunities to influence the content and way of provision of the social and health care services provided for them, and to contribute to deciding on the choices regarding them.

The Act states that a service plan must be drafted for an older person after his or her service needs have been investigated. The drafting of a plan must include a discussion on options with the older person to ensure a comprehensive set of services, and the views of the older person on those options must be recorded in the plan.

The working group set up to consider the right to self-determination of social welfare and health care clients issued its report on 4 April 2014. The working group's report, which was drafted in the form of a government proposal, includes a proposal for an act on the strengthening of the right to self-determination of social welfare clients and patients and on the prerequisites for the use of restrictive measures (Act on the Right to Self-Determination) and for other related acts. A government proposal drafted on the basis of the working group's report was submitted to the Parliament on 27 August 2014. The acts are intended to enter into force on 1 November 2014.

The proposal suggests that a new act be enacted which would stipulate on the strengthening of the right to self-determination of social welfare clients and patients and on the prerequisites for the use of restrictive measures (Act on the Right to Self-Determination). The proposed act would also provide for the monitoring of the use of restrictive measures as well as for legal remedies.

The objective of the new act is to strengthen the right to self-determination of clients and patients and to reduce the use of restrictive measures in social welfare and health care. Even in situations where the use of restrictive measures would be necessary for implementing social welfare and health care and allowed as an ultimate measure by law, a proportionate measure which is the most lenient one with regard to the situation should always be selected.

Service providers should strengthen the implementation of the right to self-determination in respect of the services they provide. The new Act on the Right to Self-Determination would also include provisions on the assessment of the client's or patient's capacity for selfdetermination and on relevant individual planning. An individual plan should be drafted for a client or patient at the latest when his or her capacity for self-determination has been established as reduced as referred to in the Act. This plan

should be attached to the plan drafted under the Act on the Status and Rights of Patients and the Act on the Status and Rights of Social Welfare Clients.

It is envisaged that the assessment of the capacity for self-determination and the drafting of the relevant plan would partly take place in accordance with the current measures that are provided for in social welfare and health care legislation or implemented in practice. Most of the clients within the scope of restrictive measures are clients for services arranged under special legislation. The planning and implementation of services for nearly all persons with memory disorders are performed under the Act on Services for Older Persons. Additional funding was allocated in connection with the Act on Services to Older Persons to a more indepth investigation of service needs, covering also the assessment of functional capacity related to the capacity for self-determination, as well as to investigating the service needs arising from a reduced capacity for self-determination.

The Act on the Right to Self-Determination would also lay down general prerequisites for the use of restrictive measures, such as the requirements of necessity and proportionality and respect for human dignity. The Act would also stipulate on specific conditions for each measure and include provisions concerning a procedure to be applied when making a decision on restrictive measures or other solutions.

Adequate resources

The poverty threshold in Finland, defined as 50% and 40% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value, was estimated to be at respectively €909 and £728 per month in 2011. The Committee considers that the guarantee pension when combined with all relevant supplements will possibly meet the threshold. ***The Committee asks to be kept informed of all developments in the situation.***

The full amount of the guarantee pension is **€743. 38 per month in 2014.**

Guarantee pensions are adjusted at the beginning of January in line with changes in the national pensions index, corresponding to the increase in the cost-of-living index.

The Committee further notes from Eurostat that in 2011, I% of persons aged 65 and over received income falling below 40% of median equivalised income (compared to 0. 7% *in 2010 and 0.8% in 2007).* ***The Committee nevertheless asks the Government what measures are taken to address the situation of this group.***

According to national statistics, the number of elderly persons in receipt of social assistance has been stable during the past years, indicating an adequate level of primary benefits and other means of livelihood.

(graphic)

Source: Income support 2012. Official statistics of Finland, Social Security. Statistical report 1/2014

Prevention of elder abuse

The Committee notes from the report that in 2008, the Ministry of Social Affairs and Health issued "Recommendations for the prevention of interpersonal and domestic violence. Recognise, protect and act. How to guide and lead local and regional activities in social and health care services", addressed to the local and regional organisations responsible for municipal social and health care services. The municipal inspection boards will assess the implementation of these recommendations.

The Committee asks for more information about Government's actions in this area, in particular whether and how the Government evaluates the extent of the problem, and if any legislative or other measures have been taken or are envisaged in this area.

In Finland the Government works for the prevention of all kinds of violence. The Ministry of Social Affairs and Health is engaged in preventive work against interpersonal and domestic violence. Following the guide "Recognise, protect and act" published in 2008, the Ministry has drafted other instructions and guides to advise the authorities and other actors in recognising and helping victims of violence. The guides also cover violence experienced by older persons.

The National Institute for Health and Welfare plays a significant role within the administrative field of the Ministry of Social Affairs and Health through coordinating and implementing government programmes. For example, the institute carried out a study on the frequency of violence among older persons in Finland in 201 0 in connection with the Daphne project funded by the EU. The institute has also published a guide called "Let's talk about violence", which is intended for all actors, including those in the field of elder care (http:/ /www.stm.fi/c/document_library/ get_file?folderId=40879&name=DLFE-1 0512.pdf).

During the past few years significant effort has been taken to recognise abuse and violence experienced by older persons. For example, the Action Plan to Reduce Violence against Women (2010-2015) adopted by the Ministry of Social Affairs and Health addresses all women regardless of their age, without forgetting men who may also be in need for help. The action plan is coordinated by the National Institute for Health and Welfare.

The National Council for Crime Prevention, established in the Ministry of Justice, has published a guide on senior safety and security which advises older persons on how to protect themselves against crimes. It also tells them how to act if they nevertheless end up a victim of crime(http:/ /www .rikoksentorj untaneuvosto .fi/material/ attachments/rtn/rtn/julkaisut/ seniorien turvaopas/6CezfnUMM/Turvaopas senioreille painettu opas.pdf).

Both regional state administrative agencies and the National Supervisory Authority for Welfare and Health monitor the conditions at elder care institutions as well as the competence of personnel in addressing potential problems arising at the institutions.

Finland's Slot Machine Association provides funding for different projects of various organisations. For example, Suvanto- For A Safe Old Age, an association focusing on the safety of senior citizens, is currently implementing a project called Root 2013-2017 with the Oulu Association of Mother and Child Homes and Shelters. The project aims at embedding the work against abuse of older persons and interpersonal violence in everyday practices. An objective of the project is to increase the awareness of employees and general public of violence against older persons, affect their attitudes and provide means for helping. The project includes organising an information campaign and conference for increasing awareness and facilitating the recognition and addressing of abuse and violence experienced by older persons.

Services and facilities

The Committee previously asked to be updated on any evaluation on the effectiveness of the system of individual service needs assessment for persons over 80 years of age. The report does not provide relevant information in this regards. **The Committee reiterates its question.**

In 2006 provisions were added to the Social Welfare Act (71 0/1982) on the right to have access to service needs assessment. According to Section 40 of the Act, the need for social services must be assessed without delay in urgent cases. In other cases the municipality is responsible for providing persons aged 75 years or over access to an assessment of the need for social services at the latest

on the seventh weekday from the date when the authority of the municipality responsible for social services was contacted in order to obtain services. At first the right mentioned in the provision was applied to persons aged 80 years or older but the age limit was reduced at the beginning of 2009.

In 2010 the service needs assessment laid down in the Social Welfare Act was performed on nearly every tenth person aged 75 years or older. Approximately two thirds of them received more or new services as a result of the assessment.

Section 15 of the Act on Services for Older Persons, which entered into force on **1** July 2013, stipulates that the service needs have to be investigated, and at the same time the older person's functional capacity must be examined comprehensively using reliable assessment tools.

The National Institute for Health and Welfare has been mandated by the Ministry of Social Affairs and Health to monitor the implementation of the Act on Services for Older Persons. As part of the monitoring task, the institute carried out a survey on the situation in municialities in spring 2013 before the act entered into force. At that time 58% of the municipalities that responded to the survey stated that in urgent cases an older person had always been admitted to the service needs assessment on the same or at least on the following workday, while in 42% of the municipalities this had been possible in most cases. In nonurgent cases older persons had always been admitted to the service needs assessment at the latest within seven workdays in approximately half of the municipalities that responded to the survey, while in 40% of the municipalities this had been possible in most cases. The first survey after the Act on Services for Older Persons entered into force will be carried out in autumn 2014.

So far no comprehensive studies have been carried out on the effectiveness of service needs assessments and investigations. Instead, a few studies are available on home visits which are intended to promote the wellbeing of older persons. The purpose of visits is to assess the older person's wellbeing, health and functional capacity in a comprehensive manner. According to a survey carried out in municipalities in 2008 by the National Institute for Health and Welfare (Openings 6/2009), nearly all municipalities that responded to the survey stated that home visits included a service needs assessment. Furthermore, the municipalities that performed home visits considered that the effectiveness of service needs assessment was manifested in the benefits from home visits, i.e. the older persons received information about services, services could be provided in a timely manner and the municipalities received information about future service needs for planning.

*On 4 December 2012, the Committee decided on the merits ofthe **Complaints** Nos. 7012011**and 71/2011** "The Central Association of Carers in Finland v. Finland" and found violations of Article 23 on the grounds that:*

• the legislation allows practices leading to a part of the elderly population being denied access to informal care allowances or other alternative support (Complaint 70/2011);
• insufficient regulation of fees for service housing and service housing with 24-hour assistance combined with the fact that the demand for these services exceeds supply, does not meet the requirements of Article 23 of the Charter insofar as these:
- Create legal uncertainties to elderly persons in need of care due to diverse and complex fee policies. While municipalities may adjust the fees, there are no effective safeguards to assure that effective access to services is guaranteed to every elderly person in need of services necessitated by their condition.
- Constitute an obstacle to the right to the provision of information about services and facilities available for elderly persons and their opportunities to make use of them as guaranteed by Article 23 of the Charter (Complaint 7112011).

Given that these decisions were adopted outside the reference period, their follow-up cannot be carried out in this Conclusion. ***Consequently, the Committee asks the next report to provide full in-***

formation on the implementation of legal and other relevant measures undertaken to remedy the shortcomings indicated.

The Committee would like to receive more detalled tnfotmation ana statistics in arderto assess the housing situatlon of the elderly, in particular whether the housing provided is adequate to the particular needs the elderly, and whether the supply is sufficient.

Health care

The report states that the Draft Act on Supporting the Functional Capability of Ageing Population and on Social and Health Services for Older Persons was prepared by a steering group established by the Ministry of Social Affairs and Health. The Committee wishes to be informed about the legislative stage and the scope of this proposal.

The Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons entered into force on 1 July 2013 and is currently being implemented.

Institutional care

In light of the Committee's decisions of 4 December 2012 on the merits of complaints "The Central Association of Carers in Finland v. Finland", Nos. 7012011 and 71/2011 (see above), the Committee asks whether the supply of institutional facilities and alternative services for elderly persons is sufficient, whether the relevant cost of such facilities/services is affordable or assistance to the costs is available, and how the quality of such services is ensured.

Act on Services for Older Persons

The Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons (the so-called Act on Services for Older Persons), which entered into force on 1 July 2013, imposes additional obligations on local authorities, for instance to ensure that older persons can make appropriate arrangements for their care. Under Section 6 of the Act on Services for Older Persons, the decision-making body responsible for social welfare in the municipality must annually evaluate the adequacy and quality of social welfare services needed by older persons in its area. Under Section 7 of this Act, local authorities must provide social services for their older population so that the services in terms of content, quality and extent conform to what is required by the needs of the older population in the municipality.

Under Section 5 of the Act, local authorities must draw up a plan on measures to support the wellbeing, health, functional capacity and independent living of the older population as well as to organise and develop the services and informal care needed by older persons. The local authorities must take the plan into consideration, for example when preparing the budget. The local authorities must assign adequate resources for implementing the plan (Section 9).

Under the Act on Services for Older Persons, local authorities must provide advice services that support the wellbeing, health, functional capacity and independent living of the older population (Section 12). The purpose of this section is to ensure that an older person is adequately informed about the service options that are available.

An older person's need for services will be investigated comprehensively together with the older person and, as necessary, his or her family members or other persons close to him or her (Section 15). Social services are granted to a client based on an investigation of service needs (Section 18). The fees charged to the clients for the services are determined under the Act on client fees in social welfare and health care (734/1992). In case the fee would be unreasonable for the client, it may be reduced or waived.

Long-term care and attention for older persons must principally be provided in the older person's private home or other home-like place of residence (Section 14). The preliminary work on the Act on Services for Older Persons (Government Proposal 160/2012) notes that the primary method of providing long-term care and attention could for example be informal care support, if the older person has a family member or other person close to him or her who is willing and able to act as an informal carer.

In 2013, a total of 42,300 persons received informal care support. The number of those receiving support had increased by 4.2 year on year. In 2013, 67 per cent of persons receiving informal care support were aged 65 or over.

From 2013 on, an increase in central government transfers to local government has been included in the Budget to be allocated to developing support services for informal care in municipalities. This increase allows the municipalities to boost their informal care support services by some EUR 34 million in 2014.

A National Development Programme for the Support of Informal Care

A working group appointed by the Ministry of Social Affairs and Health completed a proposal for a National Development Programme for the Support of Informal Care in March 2014. One member and the secretary of the group represented the complainant, i.e. the Central Association of Carers in Finland.

The development programme outlines the strategic goals for the promotion of informal care and legislative and other development measures for 2014-2020. In total, the programme comprises 35 development measures, which various branches of administration, municipalities, NGOs and other actors would be responsible for implementing. The programme covers informal care based on an agreement (so-called contractual informal care) and other informal care.

For example, the working group proposed that the current Act on support for informal care (93 7 /2005) should be replaced by a new act on contractual informal care in 2016. This Act would lay down provisions on criteria for informal care, including the binding and demanding need for care of the person cared for, national criteria for granting compensation to carers, the amounts of this compensation, and services that support contractual informal care. All informal carers meeting the criteria for granting the compensation would have a socalled subjective right to the compensation and to statutory leave. The working group outlined two alternative models for the administration and funding of the compensation paid to carers. According to the working group, informal care other than contractual care should be supported with discretionary services referred to in the Social Welfare Act.

The working group set the target at increasing the number of informal carers to some 60,000 by the year 2020.

The working group estimates that the additional (gross) expenditure incurred for implementing the development programme in its full extent would amount to some EUR 468 million a year in 2020. The working group stresses that by developing support for informal care, increases in expenditure on other forms of care may be curbed.

The implementation of the national informal care development programme is to be rolled out in phases during the current and the following government term. Programme implementation will be coordinated with other social and welfare sector reforms. Several major projects to reform social welfare and health care legislation are currently underway in Finland.

In March 2014, the Government made a decision on a reform of social welfare and health care, under which five regional parties will be responsible for the arrangement of social welfare and health care services. A key objective of this reform is guaranteeing equal services to all citizens regardless of their

municipality of residence. The act on the arrangement of social welfare and health care services is to enter into force in 2015. In the context of the social welfare act overhaul, the plan is to also address the need for support experienced by social welfare clients' family members and friends. Government proposals on these reforms will be debated by the Parliament in late 2014. The act on the arrangement of social welfare and health care services and the new social welfare act are to enter into force in 2015. The social welfare and health care regions will start operating on 1 January 2017. Another project that is relevant to informal care support is a parliamentary report on the reform of the social welfare and health care funding system, which will continue until the end of this government term.

The opportune time for assessing the need for legislative reforms concerning informal care support and its administration and funding will be during the next government term (20 15-), when these projects can be incorporated into the reform of the general legislation on the arrangement and funding of social welfare and health care.

On 23 May 2014, the Ministry of Social Affairs and Health organised a round table discussion for experts of informal care, at which the short and longer term implementation of the national informal care development programme was discussed. Participants at this discussion were the Minister of Health and Social Services Susanna Huovinen, a representative of the complainant, i.e. the Central Association of Carers in Finland, and representatives of other associations for informal cares, the disabled and older persons, the Ministry of Social Affairs and Health, supervisory authorities, the Social Insurance Institution, the Association of Finnish Local and Regional Authorities, the National Institute for Health and Welfare, universities and political parties.

At the round table discussion, it was noted that the National Development Programme for the Support of Informal Care prepared by the working group contains many measures that the various informal care sector actors can launch during the current government term before any amendments to the Act on support for informal care enter into force. At the discussion, the participants agreed that key measures regarding informal care in the near future can be summed up in the following points:

1. Linking informal care to the on-going drafting of legislation
2. Safeguarding and organising the implementation of the national development programme for informal care. The Ministry of Social Affairs and Health and the National Institute for Health and Welfare will prepare an implementation plan for the programme. If necessary, the Ministry of Social Affairs and Health will appoint a steering group for programme implementation.
3. Improved monitoring of informal care, e.g. by developing indicators and influencing the development of electronic systems.
4. Drawing up an informal care guide and disseminating good practices.
5. Launching cross-administrative cooperation to develop informal care through measures carried out by various branches of administration, including the educational sector (e.g. focus on cooperation between informal carers and social welfare and health care professionals in the education and training of professionals).
6. Clarifying the role ofNGOs in programme implementation under the coordination of the Central Association of Carers in Finland.

Structural Policy Programme

On 29 August 2013, the government agreed upon a structural policy programme to strengthen conditions for economic growth and bridge the sustainability gap in general government finances. The aim is to reform the structure of services so that an increasing share of older persons needing services will receive outpatient services, including home care and informal care support, while a smaller share than today will receive institutional care.

Statistics from 2012 indicate that of the population aged 75 or over, 90% live in their own homes, and of this group, 11.9% receive regular home care services. Of these, 4.5% are covered by informal care

services, while some 6.1% are cared for in sheltered housing providing 24-hour assistance. Of the population aged 75 or over, 3.8% are in long-term institutional care either in old people's homes or health centre wards.

As part of structural policy programme implementation (Measure 24), the Ministry of Social Affairs and Health prepared in February 2014 an action plan for cutting back on institutional care for older persons and for extending services provided at home. These measures consist of legislative amendments, targeted guidance and supervision, monitoring, evaluation and communication. The measures of this programme include implementation of the National Development Programme for the Support of Informal Care and the reform of the Act on support for informal care in ways to be specified at a later date.

Client fees

Following the Committee's decisions of 4 December 2012 on the merits of complaint "The Central Association of Carers in Finland v. Finland" No. 71/2011 and as Finland has informed the Committee previously, the Ministry of Social Affairs and Health has set up a working group to prepare proposals for the legislation concerning user charges for service housing and home services. The term of the working group has been extended to the end of October 2014 and its mandate has been extended to cover also fees for services given at home. A draft of the proposed act was circulated to municipalities for comments in July 2014. The relevant government bill will be debated in the Parliament later in the autumn.

RESC 23 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 23 of the Charter on the ground that it has not been established that there is an adequate legal framework to combat age discrimination outside employment

328. Additional information is to be provided in the next National Report.

RESC 23 MONTENEGRO

The Committee concludes that the situation in Montenegro is not in conformity with Article 23 of the Charter on the ground that the minimum level of old-age pension is inadequate.

329. The representative of Montenegro provided the following information in writing:

Legislative framework
Protection of the elderly in the area of social welfare is ensured under the Law on Social Welfare and Child Protection (Official Gazette of Montenegro 27/13), the Law on Travel Benefits for Persons with Disability (Official Gazette of Montenegro 80/08), Strategy for Integration of Persons with Disability in Montenegro 2008-2016, Strategy for Development of Social Welfare of the Elderly 2013-2017, Strategy for Development of the Social Welfare and Child Protection System in Montenegro for the period 2013-2017, Strategy for Permanent Resolution of the Situation of Refugees and Internally Displaced Persons with special emphasis on Konik I and Konik II Camps 2011-2015, with the Action Plan.

The Law on Social Welfare and Child Protection forbids discrimination of beneficiaries on the grounds of race, sex, age, national belonging, social origin, sexual orientation, religion, political, trade union or other determination, property, culture, language, disability, nature of social exclusion, belonging to a social group or other personal characteristic. In addition, the Law on Prohibition of Discrimination and the Law on Prohibition of Discrimination of Persons with Disability govern the issue of discrimination and carrying out of adequate proceedings in cases of discrimination.

Pursuant to the Family Law of Montenegro, the Guardianship Authority (Centre for Social Work) will appoint guardian to an elderly person who is not able to take care of his rights and interests. Before this is done, the elderly person must be deprived of his capacity to transact business or restricted in his capacity to transact business by the competent court. In the same proceedings the court orders that guardian be appointed by the Guardianship Authority. The Guardianship Authority also provides support to the elderly person by way of counselling, assessment and planning on how to overcome the problem in his life.

Strategy for Development of Social Welfare of the Elderly 2013-2017 is a continuation of strategic approach to issues of importance to the elderly in Montenegro. This approach was launched by the adoption and implementation of the Strategy for Development of Social Welfare of the Elderly 2008-2012. The starting points of reforms are the establishment of efficient protection for the elderly that is line with their needs and in line with modern theoretical approaches in professional social work and the current state of social welfare in Montenegro. Social welfare institutions in Montenegro involved in the provision of social services to the elderly are primarily Centres for Social Work and nursing institutions. There are three nursing institutions for the elderly: Public Institution *Grabovac* Nursing Home for the Elderly in Risan, Public Institution *Bijelo Polje* Nursing Home for the Elderly in Bijelo Polje, as well as Public Institution Special Institute *Komanski most* in Podgorica, intended for placement of adult and elderly persons with disabilities. An integral part of the Strategy is an Action Plan. In addition, local self-governments will elaborate in more detail these activities for the territory of their municipalities. An Action Plan for Development of Social Welfare of the Elderly in the Municipality of Pljevlja has been developed. Furthermore, a Memorandum of Cooperation in Development of Social Welfare of the Elderly in the Municipality of Pljevlja has been signed. This Memorandum provided for joint implementation of activities aimed at construction of an institution for placement of the elderly including: residential placement of the elderly, daycare centre for the elderly and adults and sheltered accommodation for adults with disability. The Ministry of Labour and Social Welfare has allocated a total of €2 612 407.00 for this purpose (€ 2 078 278.00 are donations) through the Regional Housing Programme. An analysis of social services at the local level has provided an overview of distribution of services for the elderly and the number of beneficiaries of such services. According to the data, local services are provided in 17 municipalities, by 526 staff members and 656 volunteers. A majority of services are aimed at the elderly: 28 services or 21.9% of all registered services. The most common service is housekeeping assistance, provided by 22 service providers to a total of 1 189 beneficiaries. Second most important service is day-care centre. There are three more services for the elderly covering 870 beneficiaries: provision of food for the elderly, counselling and therapeutic services.

Adequate resources

With regards to exercise of social welfare rights under the Law on Social Welfare and Child Protection, persons older than 67 years of age are considered incapable of work and may exercise the following rights if they meet the requirements: family allowance, third-person care and assistance allowance, personal disability allowance, one-off financial assistance and, as beneficiaries of family allowance, the right to subsidized electrical power supply and some rights established at the local level. They are also entitled to social protection services: support for life in the community; counselling and therapeutic support and social and educational services; placement and urgent interventions. The number of the elderly who were beneficiaries of family allowance in February 2014 was 369 men and 1 125 women, or a total of 1 494 elderly.

The Law provides that a municipality may, in accordance with its financial capabilities, grant material social welfare benefits such as: one-off assistance; subsidized utility services provided by public enterprises established by the municipality and other material social welfare benefits. The Law provides that municipalities may allocate funds within their budgets for material social welfare benefits and for social and child protection services such as: housekeeping assistance, soup kitchens, assisted living,

placement in shelter, social housing, in accordance with the law and other services in accordance with its financial capabilities.

The elderly who exercise the right to third-person care and assistance allowance are entitled to this right regardless of whether there are socially disadvantaged. The amount of this allowance is €63.50 If they exercise the right to family allowance amounting to €64.00, their total income is €127.50 with other previously mentioned income on the basis of the right to family allowance and third-person care and assistance allowance.

The Strategy Development of Social Welfare of the Elderly 2013-2017 is accompanied by an analysis of the position of the elderly in Montenegro covering demographic and other characteristics; institutional capacities of the system; developed services and capacities of the system and concluding remarks.
With regards to *Demographic and other characteristics* the analysis found that Montenegro belongs to the group of countries with a high index of aging. The number of citizens older than 60 in the overall population has continuously grown in the last 60 years. The statistical data confirm this – in 1953, the group of persons older than 60 was 10.42% of overall population, in 1991 this percentage was 12.78% and in 2003, this percentage was 16.67%. According to results of the 2011 census, Montenegro has a population of 620 029, with 18.3% of citizens older than 65, which confirms the tendency of aging of population in Montenegro. The data on the age structure of Montenegrin municipalities suggest there are two groups of municipalities in which the share of persons older than 65 is high and much higher than national average. The first group includes four northern municipalities: Pluzine (29%), Savnik (27.5%), Zabljak (26.3%) and Pljevlja (24.5%). The situation is particularly difficult in Pljevlja, which is also the largest municipality with organizational and financial difficulties. The second group includes municipalities with percentage of the elderly above the national average: Andrijevica, Kolasin, Cetinje, Herceg Novi and Kotor, with a share of persons above 65 of around 22%. Municipalities with a particularly high percentage of citizens over 75 are Pljevlja, Pluzine, Savnik and Zabljak. The data on age structure of municipalities suggest that the state has a duty to develop approaches for support to the elderly primarily in these municipalities and particularly to develop services in the social welfare system targeting the elderly.

With regards to the *Institutional capacity of the system*, the analysis found that social welfare institutions in Montenegro involved in direct provision of social services to the elderly are primarily Centres for Social Work and residential institutions. Lately, another way of care for the elderly is rapidly developing, through the establishment of privately-owned nursing homes for the elderly. These homes are not part of the social welfare system and cannot be considered an institutional resource, but are nevertheless an important element which, if integrated in the social welfare system, may significantly improve the capacities of the system to provide quality services to the elderly, maybe even high-quality services. In Montenegro, there are 11 Centres for Social Work covering all municipalities in the country. The organization and the current organizational and professional resources of the Centres for Social Work are not in line with the existing needs and to approaches to social needs of the elderly. The reform of the Centres for Social Work is underway. In this context, a Rulebook on norms and standards of work of Centres for Social Work has been developed, case management method was introduced as the key method and staff were trained. Elderly can be placed in one of the three residential institutions: Public Institution *Grabovac* Nursing Home for the Elderly in Risan, Public Institution *Bijelo Polje* Nursing Home for the Elderly in Bijelo Polje, as well as Public Institution Special Institute *Komanski most* in Podgorica, intended for placement of adult and elderly persons with disabilities.

With regards to *Development of services and mechanisms of the system*, the analysis provided an overview of services for the elderly and of coverage of beneficiaries with services. According to the data, local services are provided in 17 municipalities, by 526 staff members and 656 volunteers (all identified services were covered by the analysis). A majority of services are aimed at the elderly: 28 services or 21.9% of all registered services. The most common service is housekeeping assistance, provided by 22 service providers (services are designed in accordance with the needs of the benefi-

ciaries from communities they are provided in and have different names) to a total of 1 189 beneficiaries. Second most important service is day-care centre. There are three more services for the elderly covering 870 beneficiaries: provision of food for the elderly, counselling and therapeutic services. At the north of the country there are almost no services for the elderly, despite the fact that the share of the elderly in the overall population is very high. Only in Pljevlja 3 services were registered, in Savnik 1 service, while Pluzine, Andrijevica and Kolasin have no developed services. A majority of services for the elderly were registered in the south of the country – 41% of registered services. The provision of services for the elderly yielded a range of good practices, which contribute to sustainability of services despite not being based on signed agreements and memoranda of cooperation between centres for social work, healthcare centres, hospitals and local secretariats for social welfare. In May 2011, an analysis entitled "Findings and recommendations for development of community-based social services" was carried out. With regards to services for the elderly, the analysis found that the priority group of beneficiaries are single elderly, particularly those in remote mountain areas and poverty-stricken elderly. According to service providers, single elderly in core urban areas are also very vulnerable. Service providers recognize that particularly disadvantaged is a group of beneficiaries who suffer from dementia and for whom no adequate services have been developed nor there are necessary institutional capacities for their care. An Action Plan for Development of Social Welfare of the Elderly in the Municipality of Pljevlja has been developed. Furthermore, a Memorandum of Cooperation in Development of Social Welfare of the Elderly in the Municipality of Pljevlja has been signed. This Memorandum provides for joint implementation of activities aimed at construction of an institution for placement of the elderly including – a gerontology centre which will include a day-care centre for the elderly and adults and sheltered accommodation for adults with disability. Other municipalities are implementing activities in line with the strategic document, aimed at adoption of uniform local plans for development of social welfare services for all groups of beneficiaries (including the elderly) at the local level. Municipalities of Bar, Bijelo Polje and Niksic adopted local plans during the course of 2012. A Rulebook on minimum standards for provision of social services is in the course of being developed. Also, initial documents relating to standards of services for the elderly have been developed. In addition to the above noted developments in the provision of social welfare services to the elderly, the elderly all the time exercised the rights under the current Law on Social Welfare and Child Protection, primarily the rights to: family allowance, third person care and assistance allowance, personal disability allowance, placement in institution or another family, one-off financial assistance, healthcare. Although improvements in social services are visible, there are still difficulties that need to be overcome. Bylaws under the Law on Social Welfare and Child Protection must be adopted as their absence poses a high risk to the implementation of the Law and the Strategy. Representatives of local self-governments are convinced that local capacities are not sufficiently prepared for the process of development of social services. A special problem is the Law on Local Self-government and Law on Local Self-government Financing, as they do not support decentralization. It should also be noted some of the local self-governments have failed to recognize the problem of the elderly as one of priority problems. By comparing the existing situation with the difficulties identified during the development of the Strategy for Development of Social Welfare of the Elderly 2008-2012, it is clear that the areas that are still in need of improvement are as follows: participation of local self-governments in provision of social services; development of local services for the elderly; development of non-institutional forms of support; strengthening capacities of residential institutions to provide a higher quality of life to beneficiaries; regulating control, supervision and evaluation mechanisms; development of mechanisms for dissemination of information to the elderly and the entire community about services for this group of beneficiaries. The conclusion is that the planned effects of the Strategy have only started being achieved and that a majority of the activities should continue, particularly those involving strengthening of capacities in public institutions. It is also important to invest effort aimed at achieving a higher quality of life of beneficiaries of residential institutions, to whom the state is not able to provide another type of services. It is particularly important to have in mind strongly rooted traditional patriarchal treatment of the elderly and the endeavours of the family to keep the aged member in his family as long as possible despite possible better care and higher quality of life in an institution for the elderly. This is the reason that the elderly who live in family rarely use community-based social welfare services.

The *Concluding remarks* of the analysis deal with determination of priority groups of beneficiaries and key blocks of difficulties that should be overcome in order to allow decentralization of services for the elderly and development of services in line with the needs of beneficiaries and their best interests.
Priority groups of the elderly include: single elderly, particularly those living in remote areas and central urban areas; the poor, those suffering from dementia; beneficiaries of residential institutions.
Key difficulties: the network of non-institutional services for the elderly is yet to be developed; resources of the institutions of the system are not adequate for the care of beneficiaries in line with modern demands; dissemination of information to the elderly and the community as a whole about services for the elderly is inadequate; conditions for development of integrated services are yet to be created; financial sustainability of service development is not ensured, budgetary funds are still not readily accessible to non-governmental organizations; cooperation and exchange of experiences between stakeholders in the social welfare and child care system is insufficient; level of professional knowledge is uneven, and there is a clear lack of specialized knowledge.

Prevention of abuse of the elderly

Pursuant to the Law on Protection against Domestic Violence, multidisciplinary teams have been set up at Centres for Social Work. The Teams provide full and coordinated protection to victims of domestic violence, including to the elderly persons who are victims of violence. The Centre for Social Work, healthcare institution, as well as other authorities and institutions involved in protection of victims are under a duty to provide protection and assistance to the victim in line with their competences. With regards to social welfare, the said law provides that social welfare involves material and non-material assistance, placement and social work services, in line with the law governing social welfare and child protection. A special Commission has been set up to coordinate, implement, monitor and evaluate carrying out of activities under the Strategy for Protection against Domestic Violence. The Commission is made up of representatives of the competent ministries and three representatives of NGOs. The Report on the implementation of activities under the Strategy was adopted by the Government in April 2013. The Ministry of Labour and Social Welfare monitors the implementation of the Protocol on handling of domestic violence cases. These activities facilitate the implementation of the Law and the Strategy against Domestic Violence by all competent institutions.

Services and buildings

The new Law on Social Welfare and Child Protection sets out services in the area of social welfare: community support services; counselling and therapeutic services and social and educational services; placement and urgent interventions. There are also rights to services from the area of social welfare: community support services; counselling and therapeutic services and social and educational services; placement and urgent interventions.
The rights from the area of social welfare and child protection are provided by 11 Centres for Social Work, which cover the territory of 23 municipalities in Montenegro with their branches.

Overview of services for the elderly by municipalities in Montenegro:

Municipality	Service provider	Type	Name of service	Group of services (in accordance with the Law)	Type of service	Target group
Bar	Caritas of Bar Archbishopy	NGO	Day-care for the elderly	Community support service	Day-care centre	Elderly
Bar	Red Cross	CK	Care of the elderly	Community support service	Housekeeping assistance	Elderly
Bar	Trust	NGO	Health counselling service Add life to the years not years to the life	Counselling and therapeutic services and social and educational services	Counselling and therapeutic	Elderly
Bar	Caritas of Bar Archbishopy	NGO	Food for the elderly	Community support service	Other	Elderly
Bar	Caritas of Bar Archbishopy	NGO	Housekeeping assistance	Community support service	Housekeeping assistance	Elderly
Cetinje	Red Cross	CK	Care of the elderly	Community support service	Housekeeping assistance	Elderly
Cetinje	Caritas of Bar Archbishopy	NGO	Assistance and care in homes of the elderly	Community support service	Housekeeping assistance	Elderly
Danilovgrad	Caritas of Bar Archbishopy	NGO	Assistance and care in homes of the elderly	Community support service	Housekeeping assistance	Elderly
Mojkovac	Development Programmes Office	Municipality	Assistance and care in homes of the elderly	Community support service	Housekeeping assistance	Elderly

Niksic	Caritas of Bar Archbishopy	NGO	Assistance and care in homes of the elderly	Community support service	Housekeeping assistance	Elderly
Plav	Municipality	Public institution	Gerontology programme	Community support service	Housekeeping assistance	Elderly
Podgorica	Caritas of Bar Archbishopy	NGO	Assistance and care in homes of the elderly	Community support service	Housekeeping assistance	Elderly
Podgorica	Gerontology Society	NGO				Elderly
Rozaje	Employment Agency	Public institution	Housekeeping assistance	Community support service	Housekeeping assistance	Elderly
Šavnik	Red Cross	CK	Housekeeping assistance to the elderly	Community support service	Housekeeping assistance	Elderly
Ulcinj	Caritas of Bar Archbishopy	NGO	Assistance and care in homes of the elderly	Community support service	Housekeeping assistance	Elderly
Bar	Red Cross	CK	Social protection of the elderly in rural areas	Community support service	Housekeeping assistance	Elderly
Berane	Serbian Sisters	NGO	Project of home care and protection of the elderly, vulnerable and disabled persons in Berane municipality	Community support service	Housekeeping assistance	Elderly
Berane	Red Cross	CK	Assistance and care in homes of the elderly in Berane municipality	Community support service	Housekeeping assistance	Elderly
Budva	Red Cross	CK	Care of the elderly	Community sup-	Housekeeping assis-	Elderly

				port service	tance	
Herceg Novi	Third Age	NGO	Care of the elderly	Community support service	Housekeeping assistance	Elderly
Kotor	Red Cross	CK	Gerontology programme	Community support service	Housekeeping assistance	Elderly
Nikšić	Red Cross	CK	Psychological, social and health support to the elderly mobile team) in rural and urban areas	Community support service	Housekeeping assistance	Elderly
Niksic	Centre for Social Work	Public institution	Day-care for the elderly	Community support service	Day-care centre	Elderly
Pljevlja	Municipality	Public institution	Gerontology programme	Community support service	Housekeeping assistance	Elderly
Pljevlja	Municipality	Public institution	Care of the elderly	Community support service	Housekeeping assistance	Elderly
Pljevlja	Gerontology Centre	Public institution	Gerontology programme	Community support service	Day-care centre	Elderly
Tivat	CK	CK	Care of the elderly	Community support service	Housekeeping assistance	Elderly

A pilot project concerning day care centre in the municipality of Niksic was finalised in May 2014 and efforts are being made to ensure its continuation. The building was provided by the Municipality of Niksic, and project was financed by UNDP. The centre can accommodate up to 20 beneficiaries, but there are 70 applicants thus far. The nursing homes for the elderly mentioned in this report provide accommodation also to the elderly suffering from dementia.

Housing

The Law on Social Welfare and Child Protection does not provide for resolution of housing needs of the elderly. If an elderly person is a beneficiary of family allowance, the resolution of their housing needs falls within the competence of municipalities in accordance with the Law on Local Self-government.

Healthcare

The Law on Social Welfare and Child Protection provides that the right to healthcare belongs to a beneficiary: of family allowance, third person care and assistance allowance and placement service, if he does not exercise this right on another ground. In addition, healthcare is organised in social welfare and child protection institutions in accordance with regulations governing the area of healthcare.

Institutional protection

There are three nursing institutions for the elderly: Public Institution *Grabovac* Nursing Home for the Elderly in Risan, Public Institution *Bijelo Polje* Nursing Home for the Elderly in Bijelo Polje, as well as Public Institution Special Institute *Komanski most* in Podgorica, intended for placement of adult and elderly persons with disabilities.

Grabovac Nursing Home in Risan has developed capacities for receipt of beneficiaries, improved the infrastructure and professional competences of the staff thereby making a significant step forward in the quality of its services. Accommodation has greatly improved and the institution is very active in all areas that can improve the quality of life of the beneficiaries. A palliative care department has been opened.

Public Institution *Bijelo Polje* Nursing Home for the Elderly is in the process of strengthening the organisational structure and human capacities with the aim of providing quality services to beneficiaries. This institution benefits from significant assistance of *Grabovac* Nursing Home in accordance with the plan for development of the institution coordinated at the level of the competent Ministry.

In line with the Law on Social Welfare and Child Protection, the activity of the Public Institution for placement of persons with intellectual disabilities (moderate, serious and profound), Komanski Most Institute covers: placement of adults with disabilities (moderate, serious and profound disabilities and autism spectre disorders), occupational therapy in accordance with physical and mental capabilities, cultural and entertainment activities, as well as healthcare in accordance with legislation governing healthcare and health insurance. Currently, there are 112 beneficiaries in the institution. Individual plans are regularly developed and updated for each beneficiary in cooperation with the competent Centres for Social Work and their guardians, as well as beneficiaries themselves wherever possible. Special emphasis is put on contacts with their families, parental meetings are regularly held in the institution and the competent Centres for Social Work and the Institute itself invest efforts to encourage the next of kin to take part in making of all decisions important for beneficiaries. In line with this, the Institute has up-to date records of consents from guardians for all types of activities concerning beneficiaries not making part of the regular package of services, such as summer vacations, field trips, taking part in making of a movie, special medical interventions (vaccinations) etc. The Law on Social Welfare and Child Protection contains the following prohibition: “An employee of an institution or other service provider is prohibited from all types of violence against children, adults or elderly persons, physical, emotional and sexual abuse, exploitation of beneficiaries, abuse of trust or authority over a beneficiary, neglect of beneficiaries and other treatments that threaten health, dignity and development of beneficiaries.”

The Law on Social Welfare and Child Protection provides for the right of the beneficiary of file a complaint with the Ministry of Labour and Social Welfare if he is not satisfied with the service provided. Service providers are also under a duty to establish a complaints procedure by their internal documents.

A Memorandum of Cooperation in Development of Social Welfare of the Elderly in the Municipality of Pljevlja has been signed on the basis of the Action Plan for Development of Social Welfare of the Elderly in the Municipality of Pljevlja with the aim of increasing residential capacities for the elderly, which are insufficient in Montenegro. This Memorandum provides for joint implementation of activities aimed at construction of an institution for placement of the elderly including: residential placement of the elderly, day-care centre for the elderly and adults and sheltered accommodation for adults with disability. The Ministry of Labour and Social Welfare has allocated a total of €2 612 407.00 (€ 2 078 278.00 are donations) through the Regional Housing Programme.

The existing social welfare and child protection institutions operate in accordance with the Decision on requirements that must be met by social welfare institutions for performance of regular activities (Official Gazette of Socialist Republic of Montenegro 48/90). Activities are being implemented on the basis of the new Law Social Welfare and Child Protection to develop bylaws relating to standards of services in social welfare and child protection. Licencing procedure for professional staff and institutions themselves must also be defined by legislation in the upcoming period.

The Law Social Welfare and Child Protection provides for inspection supervision over the work of public and privately-owned service providers. The Administration for Inspection Affairs will be responsible for inspection. The Law provides that a social welfare and child protection inspector is independent in his work within the limits of the powers set out in the law and bylaws enacted in furtherance of the law and personally liable for his work. An inspector is under a duty to perform tasks professionally and without bias, to keep confidentiality of information he learned during the course of supervision, particularly those he learned from beneficiaries' records. In performance of supervision, an inspector has authority to determine whether the work is lawful and whether standards are met.

RESC 23 NETHERLANDS

The Committee concludes that the situation in the Netherlands is not in conformity with Article 23 of the Charter on the grounds that there is no adequate legal framework to combat age discrimination outside employment.

330. The representative from the Netherlands expressed the belief that the law and practice of his country are in conformity with Article 23 of the Charter. The aim of the Dutch governmental policy is to create legal and financial measures in the fields of housing, health care and social participation of elderly persons that is consistent with the spirit of this article which ensures the social protection of elderly people. In fact, the legal protection of elderly persons against discrimination is guaranteed by Article 1 of the Dutch Constitution and the general principles of good governance. As for now, there are no specific legal standards for the protection of the elderly when social protection is provided by private suppliers. But the elderly, if they consider to be victims of discrimination because of their age, can go to court and sue a supplier of social protection on the ground of a so-called 'wrongful act' or 'tort law', laid down in the Dutch Civil Code.
331. The representative from the Netherlands further confirmed that the legislator has not explicitly prohibited discrimination based on age in the field of social protection by specific legislation on equal treatment. This is due to the fact that currently the EU-directive is under discussion which seeks to prohibit discrimination based on age in the field of, among others, social protection and the Dutch government plans to introduce this directive in a proper way in the national legislation.
332. Finally, the representative from the Netherlands informed that some aspects of national legislation on equal treatment are already applicable to the elderly. An example is the so-called Law on Equal Treatment based on a disability or chronic disease, which is applicable to parts of the services sector, such as housing and public transport. Recently a legislative process was launched to expand the scope of this law to the entire area of goods and services. Specific legislation against discrimination would be an added value.

333. The representative from Denmark noted that the situation in her country was similar: the elderly people are protected by general legislation against discrimination.
334. In response to a question by the representative from Romania, the representative from the Netherlands confirmed that the Constitution and the Civil Code protect elderly people against discrimination based on age with respect to the bad services outside employment.
335. The Governmental Committee noted that the Netherlands feels that it respects Article 23 of the Charter both in legislation and practice. It also noted that the future EU directive will be transformed into national law and decided to await the next assessment of the ECSR.

RESC 23 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 23 of the Charter on the grounds that there is no adequate legal framework to combat age discrimination outside employment.

336. The representative from Norway informed that Chapter 13 of the Working Environment Act prohibits discrimination on the grounds of age in employment and she briefly discribed the content of that law. Under this law, between 2007 and 2012 the Ombudsperson received 529 inquiries regarding discrimination based on age; 376 of these cases where related to discrimination in employment. There have been several cases in the lower courts concerning discrimination based on age with respect to acts, regulations or collective agreements which allows an employer to dismiss workers on the grounds of age prior to the age of 70.

337. The representative from Norway further informed that a Commission appointed by the government has in 2009 submitted its proposal on a comprehensive anti-discrimination legislation, which included proposals related to age discrimination. This proposal was not followed by the former government. On the contrary, the present government intends to propose a comprehensive anti-discrimination act based upon the suggestion of the 2009 Commission. The Ministry of Children, Equality and Social Inclusion has ordered an independent examination of the consequences of a general prohibition of discrimination on grounds of age. The examination will provide a basis for assessing changes necessary in current legislation. A draft proposal can at earliest be expected in autumn 2015.

338. The representative from Norway added that Norway is currently working on a senior political strategy the aim of which is to promote healthy aging, enable elderly persons to participate in working life and promote awareness of the capabilities and contribution of elderly persons in society.

339. The Governemental Committee took note of the proposal of a new law to combat age discrimination outside employments and decided to await the next assessment of the ECSR.

RESC 23 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 23 of the Charter on the grounds that no anti-discrimination legislation exists protecting elderly persons against discrimination on grounds of age outside the employment sphere

340. Additional information is to be provided in the next National Report.

RESC 23 SERBIA

The Committee concludes that the situation in Serbia is not in conformity with Article 23 of the Charter on the grounds that the level of social assistance for elderly persons with no pension is manifestly inadequate.

Referring to the comments of the ECSR that 27% of people over 65 do not receive pensions and that the proportion of persons without entitlement to pensions is high, the representative from Serbia confirmed that, according to the Statistical Office of the Republic of Serbia and from the Pension and Disability Insurance Department of the Ministry of Labour, Employment, Veterans and Social Affairs, the percentage of elderly people without pension is 5% of the population over the age of 65 years.
These are, mostly, former rural farmers who did not contribute to social security. Today, they live in the same household as their children. If they live alone or if they do not have the resources to live, they are entitled to other social benefits, such as social assistance in cash, free medical care / health insurance, free food, exemption from certain administrative expenses and taxes, exemption from the payment of utilities.

The Governmental Committee noted the difference between data from various sources, invited Serbia to provide all the details in the next report and decided to await the next assessment of the ECSR.

RESC 23 SLOVAK REPUBLIC

The Committee concludes that the situation in Slovak Republic is not in conformity with Article 23 of the Charter on the ground that the level of social assistance for elderly persons with low income is manifestly inadequate

341. The representative of Slovak Republic provided the following information in writing:

To address the questions of the ECSR in the conclusions for the Slovak Republic, all the benefits from the system of state social assistance listed in the conclusions are cumulative, therefore the elderly persons are able to apply for all the benefits under the scope of state social assistance and if they meet the required criteria, they will be granted all the benefits for which they are eligible.

Even though the level of healthcare allowance, housing allowance, material need allowance and protective allowance are regularly reviewed and increased according to the development of the national economy, only a very small number of persons aged 65 and over are living in poverty, as is stated in the conclusions. The benefits listed in the conclusions form parts of the system of state social assistance and everyone can apply for these (and other – specifically aimed at families, etc.) benefits.

However, as the conclusions are for the elderly persons, it has to be stated that these benefits are cumulative with allowances paid under the system of social insurance (pensions – old age, widow pensions, widower pension, invalidity pension), as each person who has worked has social insurance. There is no concept of minimum old age pension in the Slovak Republic, as is listed in the conclusions, but, theoretically, if a person would be earning the minimum wage during their whole life, their old age pension would stand at 222,3 EUR per month. On a side note, a person earning the average wage would have their old age pension stand at 431,7 EUR per month.

As a result, it should be realised that an elderly person has at least one type of pension and on top of that they are able to apply for all the benefits under the system of state social assistance, and all these benefits are cumulative. Therefore, the number of persons aged 65 and over living in poverty is low.

RESC 23 SWEDEN

The Committee concludes that the situation in Sweden is not in conformity with Article 23 of the Charter on the ground that the scope of the legal framework to combat age-discrimination outside employment is not sufficiently wide.

342. The representative from Sweden informed that the Swedish Discrimination Act was amended in 2013 in line with the points raised by the ECSR. According to the Act, since 1st January 2013 the protection against discrimination on the ground of age was extended to cover more areas than working-life and education. The prohibition now covers for example the areas of healthcare, social services and social insurances as well as access to goods, services and housing. Anyone who has been sub-

jected to discrimination on the grounds of age can report this to the Equality Ombudsperson that is the agency responsible for ensuring compliance with the Discrimination Act.

343. The Governmental Committee congratulated Sweden for the adoption of amendments that expand the scope of the law and decided to await the next assessment of the ECSR.

RESC 23 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 23 of the Charter on the ground that it has not been established that there is legislation protecting elderly persons from discrimination on grounds of age.

344. Additional information is to be provided in the next National Report.

RESC 23 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 23 of the Charter on the grounds that the level of the minimum pension is manifestly inadequate.

345. La représentante de l'Ukraine informe que l'article 46 de la Constitution garantit que le niveau de la pension minimale doive être respecté. Cet article stipule notamment que les pensions et autres types de prestations sociales et d'assistance qui sont les principales sources de subsistance devraient assurer un niveau de vie non inférieur au niveau minimum établi par la loi. Elle ajoute qu'une loi récente réglemente les aides au logement et qu'un nouveau programme de subvention est élaboré dont les détails seront présentés dans le prochain rapport.
346. Le Comité gouvernemental prend note des informations fournies par l'Ukraine et décide d'attendre la prochaine évaluation du CEDS.

ARTICLE 30 – RIGHT TO BE PROTECTED AGAINST POVERTY AND SOCIAL EXCLUSION
RESC 30 BELGIUM

The Committee concludes that the situation in Belgium is not in conformity with Article 30 of the Charter on the ground that during the reference period there was a lack of a co-ordinated policy, in particular in housing matters, with regard to Travellers in order to prevent and combat poverty and social exclusion.

347. The representative of Belgium provided the following information in writing:

En matière de « Logement des ROMS », il faut rappeler qu'un plan stratégique national a été finalisé en 2012, dans le cadre de la Conférence interministérielle de l'Intégration sociale, structure de coopération permanente entre l'Etat fédéral, les Régions et les Communautés. Il vise à donner un meilleur accès au monde du travail, au logement, à l'enseignement et aux soins de santé.
Ce plan vise essentiellement sous le terme « Roms », les populations arrivées récemment de l'Europe de l'est et généralement sédentarisées et non les descendants des vagues de migration plus anciennes, les « Gens du voyage », essentiellement nomades et pour la plupart de nationalité belge.

C'est dans ce contexte que la mission du CMGV, compte tenu de son expertise, a été élargie aux « Roms » en vue d'améliorer leur intégration.
Toutefois, pour rencontrer les besoins spécifiques des « Roms » et lutter contre les inégalités auxquelles ils sont confrontés, des mesures explicites sont certes nécessaires, mais sans qu'elles ne soient exclusives, ni stigmatisantes.
Les mesures s'appuient ainsi sur des dispositifs structurés, visant l'égalité des chances et l'intégration des personnes issues de l'immigration en général mais également des « Roms » en particulier. C'est

notamment l'objectif du décret relatif à l'intégration des personnes étrangères et d'origine étrangère, intégré dans le Code wallon de l'action sociale et de la santé, actualisé le 27 mars 2014 et prévoyant maintenant pour certaines catégories de personnes un parcours d'intégration.

Enfin, en ce qui concerne la lutte contre les discriminations, la Wallonie s'est dotée d'un levier important en adoptant le décret du 06/11/2008 relatif à la lutte contre certaines formes de discrimination. En outre, le Centre interfédéral pour l'égalité des chances est chargéd' accompagner les victimes, informer et sensibiliser, mais encore de relayer, traiter, voire assigner en justice tout acte de discrimination, en particulier visant la race ou l'origine.
Ces mesures se construisent donc progressivement, en partenariat avec les pouvoirs publics et le secteur associatif. Elles ont la capacité de s'adapter aux phénomènes nouveaux et émergeants et sans stigmatisation.

- Concernant le Centre de Médiation des Gens du Voyage (CMGV) : le Gouvernement wallon a adopté le décret du 28/4/2014 relatif à l'aide aux gens du voyage qui permet notamment d'assurer la pérennité du subventionnement du CMGV ainsi que de son action.

RESC 30 FRANCE

The Committee concludes that the situation in France is not in conformity with Article 30 of the Charter on the grounds that:

- *follow-up of decisions on the merits of Collective Complaints No. 33/2006 and 51/2008 remains unsatisfactory;*
- *there was discrimination of migrant Roma in respect of housing policy during the reference period (Collective Complaint No. 67/2011*

First ground of non conformity

348. The representative of France said that the Multi-Year Plan to Combat Poverty and Promote Social Inclusion, adopted on 21 January 2013 and launched again for 2014, comprised 69 measures, including the provision of social housing for the poorest households. The amount of social housing for which funding was provided had increased by 14% in 2013 compared to 2012 with the result that funding for 150 000 homes was provided for in the Multi-Year Plan. In 2014 work had begun to build up a new supply of homes for households with a combination of social and financial difficulties using special subsidies from the national fund for the increase in the supply of low-rent housing "of a highly social nature", whose budget had been increased to €6.3 million for 2013. Among the features of this type of social housing were controlled rent and charges, and tailored tenancy management, making it possible to accommodate households encountering difficulties in a permanent home.

349. The representative of France said that this work to increase the provision of housing of a highly social nature could be placed in the broader context of all the activities designed to implement the right to housing, including the prevention of evictions, the full use of public social housing stocks, the establishment of social residences and increased support for welfare management at these residences, the consolidation of integrated reception and guidance services and the development of support for people moving into and living in social housing.

350. As to a policy on accommodation for Travellers (itinerant people with French nationality), the representative of France said that the establishment of increased numbers of stopping places and rented family plots was continuing. In 2013, the rate of provision had reached 64% of the target set in *département* plans and, between 2004 and 2013, funding was provided for 887 places on family plots. Local governance of policies for Travellers had been amended by Law No. 2014-58 of 27 January 2014 on the modernisation of public local and regional action and the consolidation of metropolitan areas, under which it had become obligatory for respon-

sibility for the development, upkeep and management of stopping places to be assigned to metropolitan municipalities, ordinary metropolitan areas, the Greater Paris Metropolitan Area or the Greater Lyon Metropolitan Area. The bill on the clarification of the local and regional organisation of the Republic also provided for this responsibility to be transferred to groupings of municipalities and greater agglomerations. At central government level, the Interdepartmental Delegate for Accommodation and Access to Housing had been tasked with supervising the reorganisation of the National Advisory Commission for Travellers.

351. The Governmental Committee took note of the information provided, encouraged France to provide all the necessary information in its next report and decided to wait for the ECSR's next assessment.

Second ground of non-conformity

352. The representative of France provided the following information in writing:

1. Concernant les gens du voyage

La politique conduite en direction des gens du voyage en matière de logement s'attache à permettre aux personnes bénéficiant du statut de gens du voyage de pouvoir vivre leur itinérance en bénéficiant de lieux adaptés. Cela se concrétise notamment par la poursuite de la construction d'aires d'accueil dans toutes les villes de plus de 5000 habitants, conformément à la loi de 2000 dite loi Besson.

Plus globalement, dans le cadre du plan pluriannuel de lutte contre la pauvreté et pour l'inclusion sociale, le gouvernement a engagé une action en vue de redynamiser la politique en faveur des gens du voyage, en particulier dans son aspect interministériel. Un rapport a été rendu au gouvernement par le préfet Derache en vue d'élaborer des propositions relatives au statut des gens du voyage, à leur circulation, au statut juridique de la caravane du point de vue du droit de l'habitat et à l'obligation d'accueil par les communes.

La dimension partenariale de cette politique sera également renforcée avec la rénovation en cours de la Commission nationale consultative des gens du voyage dont le secrétariat général a été confié à la DIHAL.

2. Concernant les campements illicites

Les populations habitant dans des campements illicites et qui sont dans leur très grande majorité des ressortissants européens migrants font l'objet de mesures spécifiques en matière d'accès au logement. 15000 à 20000 personnes sont concernées en France, dont un tiers d'enfant, principalement autour des grandes agglomérations.

Tout en respectant les décisions de justice qui prescrivent l'évacuation des terrains occupés de manière illicite, la politique d'anticipation et d'accompagnement du démantèlement de ces campements telle qu'elle ressort de la circulaire du 26 août 2012 a pour but de permettre l'accès au droit commun, à travers des solutions provisoires ou durables de logement, qui favorisent les démarches d'insertion.

Pour atteindre cet objectif, les institutions et associations ont à leur disposition toute une palette de solutions, dans le parc public ou dans le parc privé dit de droit commun, ainsi que dans le secteur du logement accompagné. Ces différentes possibilités recouvrent aussi bien des structures collectives que des logements individuels en diffus. Le gouvernement a en outre prévu dans le plan pluriannuel de lutte contre la pauvreté et pour l'inclusion sociale une enveloppe annuelle spécifique de 4 millions d'euros pour financer des actions d'anticipation et d'accompagnement des démantèlements de campements illicites.

En fonction des dynamiques et des contextes locaux, les acteurs mobilisent ces dispositifs en proposant à proposer des solutions adaptées à chaque situation. Ainsi, à Bordeaux, l'opérateur propose aux familles qui le souhaitent et qui ont été diagnostiquées, d'intégrer un logement ordinaire afin de participer à un programme d'accès à l'emploi et à la scolarisation. D'autres collectivités mettent en place des espaces de vie de transition (villages d'insertion) qui permettent de mener des projets d'insertion avec les familles, comme c'est le cas du Hameau du Bouvray, à Orly dans le Val-de-Marne. D'autres collectivités encore choisissent de stabiliser directement certains campements existants afin de sortir de la logique des expulsions. Ainsi à Gardanne, un campement illicite a été « légalisé », facilitant les démarches d'insertion.

Le volet logement de la mise en œuvre de la circulaire du 26 août 2012 reste néanmoins un point difficile. C'est pourquoi le gouvernement a récemment confié à l'opérateur national Adoma une mission de résorption des bidonvilles.

Adoma peut être sollicité par les préfets pour agir en tant que maître ouvrage d'accompagnement social mais aussi pour mettre à disposition les capacités dans son parc de logement très social. Il s'agit d'un outil supplémentaire pour favoriser l'accès au logement pour les habitants des campements illicites.

La convention entre l'Etat et Adoma a été signée début mars 2014. Des premières déclinaisons opérationnelles ont été réalisées suite à l'évacuation des campements à Lezennes dans le Nord le 22 avril et à Nice dans les Alpes-Maritimes le 24 avril : trois familles dans le premier cas et une famille dans le deuxième ont été relogées par Adoma et bénéficient désormais d'un accompagnement.

RESC 30 ITALY

The Committee concludes that the situation in Italy is not in conformity with Article 30 of the Charter on the grounds that

- *it has not been established that there is an overall and coordinated approach to combating poverty and social exclusion;*
- *there is discriminatory treatment of migrant Roma and Sinti with regard to citizen's participation.*

First ground of non-conformity

353. Additional information is to be provided in the next National Report.

Second ground of non conformity

354. The representative from Italy said that the situation in Italy has changed since the last assessment of the ECSR. From the beginning of 2012, a 2012-2020 National strategy for the inclusion of Roma, Sinti and Travelers has been launched, in application of the European Union communication No 173/2011. The objectives of the National Strategy are the following:

- to promote equal treatment and social and economic inclusion of Roma, Sinti and Travelers communities in society;
- to ensure an improvement in their living conditions;
- to give them the permanent responsibility and effective participation in their social development and the exercise of citizenship rights guaranteed by the Italian Constitution and the international conventions of the United Nations.

355. The representative from Italy informed then that this strategy was based on the coordination of intervention between services at ministerial, regional and local level together with NGOs active in the field of social inclusion. Specific actions are foreseen in order to improve access for these communi-

ties to education, training and employment, health and social services and housing. These actions have been launched and involve so far 11 regions, 32 provinces and 5 municipalities.
356. The representative from Romania noted that the national strategy was a strong point in social policy regarding Roma, Sinti and Travelers communities and a close follow of this strategy should be ensured.
357. The Chair noted that the national strategy was adopted in the context of the request and with the financial support of the European Union.
358. The Governmental Committee took note of the information provided by Italy and decided to await the next assessment of the ECSR.

RESC 30 PORTUGAL

The Committee concludes that the situation in Portugal is not in conformity with Article 30 of the Charter on the ground that there was a lack of a co-ordinated policy in housing matters with regard to Roma (Collective Complaint No. 61/2010).

359. The representative from Portugal informed that in April 2013, Portugal has adopted the first National Strategy for the Integration of Roma Communities with a list of measures to be taken before 2020 in four main areas: education, employment, health and housing. An overarching pillar related to citizenship, which foresees the fight against discrimination, gender equality, justice and safety aims at raising awareness of Roma communities and the Portuguese society in general about their rights and duties. The Strategy has 4 main areas related to social housing, which is managed by State through the Housing and Urban Rehabilitation Institute (IHRU), the Autonomous Regions and Municipalities:
360. improve knowledge of the housing conditions of Roma communities;
361. building practices that promote the integration of Roma communities in the context of housing policy;
362. adjust housing solutions and improve social housing;
363. promote access to rental housing / home ownership.
364. In addition, the representative from Portugal said that in 2013 a survey on housing conditions of Roma communities was carried out by IHRU in 308 municipalities. In total 231 municipalities responded to the survey (75%) and the result shows that Roma communities are present in 141 municipalities. Moreover, in 2013 several housing rehabilitation projects were undertaken in four municipalities (Campo Maior, Contumil, Cabomor and Peso da Régua) to improve the housing conditions of Roma communities (89 Roma families were concerned).
365. The representative from Portugal pointed out that since its adoption, the National Strategy for integration of Roma communities has contributed significantly to deepen the work that has been done in terms of public policy, namely: (i) investment in mediation through the pilot project of municipal mediators; (ii) involvement of local authorities; (iii) commitment in the promotion of intercultural education; (iv) promotion of pre-school and school education for children and youth; (v) mobilization and support to associations and representatives of Roma communities and (vi) public awareness raising actions.
366. In response to a question from the Chair, the representative from Portugal said that 20 mediators, mostly originated from Roma communities, were working in 308 municipalities.
367. The Governmental Committee took note of the progress in housing policy and practice regarding Roma communities in Italy and decided to await the next assessment of the ECSR.

RESC 30 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 30 of the Charter on the ground that it has not been established that there is an effective overall and coordinated approach to combat poverty and social exclusion
368. Additional information is to be provided in the next National Report.

APPENDIX I

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(1) 129th meeting, Strasbourg, 19-23 May 2014
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APPENDIX II
TABLE OF SIGNATURES AND RATIFICATIONS
Situation at 1st December 2014

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98	14/11/02	
Andorra	04/11/00	12/11/04	
Armenia	18/10/01	21/01/04	
Austria	07/05/99	20/05/11	
Azerbaijan	18/10/01	02/09/04	
Belgium	03/05/96	02/03/04	23/06/03
Bosnia and Herzegovina	11/05/04	07/10/08	
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	06/11/09	**26/02/03**	26/02/03
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	**03/11/99**	04/04/12
Denmark *	03/05/96	**03/03/65**	
Estonia	04/05/98	11/09/00	
Finland	03/05/96	21/06/02	17/07/98 **X**
France	03/05/96	07/05/99	07/05/99
Georgia	30/06/00	22/08/05	
Germany *	29/06/07	**27/01/65**	
Greece	03/05/96	**06/06/84**	18/06/98
Hungary	07/10/04	20/04/09	
Iceland	04/11/98	**15/01/76**	
Ireland	04/11/00	04/11/00	04/11/00
Italy	03/05/96	05/07/99	03/11/97
Latvia	29/05/07	26/03/13	
Liechtenstein	**09/10/91**		
Lithuania	08/09/97	29/06/01	
Luxembourg *	11/02/98	**10/10/91**	
Malta	27/07/05	27/07/05	
Republic of Moldova	03/11/98	08/11/01	
Monaco	05/10/04		
Montenegro	22/03/05	03/03/10	
Netherlands	23/01/04	03/05/06	03/05/06
Norway	07/05/01	07/05/01	20/03/97
Poland	25/10/05	**25/06/97**	
Portugal	03/05/96	30/05/02	20/03/98
Romania	14/05/97	07/05/99	
Russian Federation	14/09/00	16/10/09	
San Marino	18/10/01		
Serbia	22/03/05	14/09/09	
Slovak Republic	18/11/99	23/04/09	
Slovenia	11/10/97	07/05/99	07/05/99
Spain	23/10/00	**06/05/80**	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland	**06/05/76**		
«the former Yugoslav Republic of Macedonia»	27/05/09	06/01/12	
Turkey	06/10/04	27/06/07	
Ukraine	07/05/99	21/12/06	
United Kingdom *	07/11/97	**11/07/62**	
Number of States 47	**2**+ 45 = 47	**10** + 33 = 43	15

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

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

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

APPENDIX III

LIST OF CONCLUSIONS OF NON-CONFORMITY

- Conclusions of non-conformity - Written examination

RESC 3§1 ALBANIA
RESC 3§1 ARMENIA
RESC 3§1 ITALY
RESC 3§1 MALTA
RESC 3§1 REPUBLIC OF MOLDOVA

RESC 3§2 ROMANIA
RESC 3§2 SLOVAK REPUBLIC

RESC 3§3 ALBANIA
RESC 3§3 BULGARIA
RESC 3§3 LITHUANIA
RESC 3§3 REPUBLIC OF MOLDOVA
RESC 3§3 PORTUGAL
RESC 3§3 ROMANIA
RESC 3§3 RUSSIAN FEDERATION
RESC 3§3 TURKEY
RESC 3§3 UKRAINE

RESC 3§4 ALBANIA
RESC 3§4 IRELAND
RESC 3§4 MALTA
RESC 3§4 NETHERLAND
RESC 3§4 ALBANIA
RESC 3§4 TURKEY
RESC 3§4 UKRAINE

RESC 11§1 ALBANIA
RESC 11§1 AZERBAIJAN (2nd ground)

RESC 11§2 GEORGIA
RESC 11§2 LITHUANIA
RESC 11§2 REPUBLIC OF MOLDOVA
RESC 11§2 PORTUGAL
RESC 11§2 ROMANIA
RESC 11§2 TURKEY
RESC 11§2 UKRANIA

RESC 11§3 ALBANIA
RESC 11§3 ANDORRA
RESC 11§3 AZERBAIJAN
RESC 11§3 BULGARIA
RESC 11§3 GEORGIA
RESC 11§3 IRELAND
RESC 11§3 REPUBLIC OF MOLDOVA

RESC 12§1 ARMENIA (1st ground)
RESC 12§1 BOSNIA AND HERZEGOVINA
RESC 12§1 CYPRUS (1st and 3rd grounds)

RESC 12§1 GEORGIA (1st and 3rd grounds)
RESC 12§1 IRELAND
RESC 12§1 ITALY (1st ground)
RESC 12§1 LITHUANIA (3rd ground)
RESC 12§1 MALTA (1st and 2nd grounds)
RESC 12§1 REPUBLIC OF MOLDOVA (1st ground)
RESC 12§1 NETHERLAND
RESC 12§1 PORTUGAL
RESC 12§1 ROMANIA (2nd and 3rd grounds)
RESC 12§1 SERBIA
RESC 12§1 SLOVAK REPUBLIC (4th ground)
RESC 12§1 SLOVENIA (2nd ground)
RESC 12§1 SWEDEN
RESC 12§2 REPUBLIC OF MOLDOVA

RESC 12§3 GEORGIA
RESC 12§3 ITALY
RESC 12§3 REPUBLIC OF MOLDOVA

RESC 12§4 BELGIUM (2nd ground)
RESC 12§4 ESTONIA (1st ground)
RESC 12§4 FRANCE
RESC 12§4 IRELAND
RESC 12§4 ITALY (2nd ground)
RESC 12§4 LITHUANIA (2nd and 3rd grounds)
RESC 12§4 MALTA
RESC 12§4 NETHERLAND
RESC 12§4 NORWAY
RESC 12§4 PORTUGAL (1st ground)
RESC 12§4 ROMANIA
RESC 12§4 SLOVENIA (3rd and 4th grounds)
RESC 12§4 SLOVAK REPUBLIC

RESC 13§1 ARMENIA (2nd ground)
RESC 13§1 BULGARIA (1st ground)
RESC 13§1 FRANCE (2nd ground)
RESC 13§1 HUNGARY (1st ground)
RESC 13§1 IRELAND
RESC 13§1 ITALY (1st and 3th grounds)
RESC 13§1 MALTA
RESC 13§1 REPUBLIC OF MOLDOVA (3rd ground)
RESC 13§1 ROMANIA
RESC 13§1 TURKEY

RESC 13§3 MALTA
RESC 13§3 ROMANIA
RESC 13§3 SLOVAK REPUBLIC

RESC 13§4 ANDORRA
RESC 13§4 IRELAND
RESC 13§4 MALTA
RESC 13§4 MONTENEGRO

RESC 14§1 AUSTRIA
RESC 14§1 BULGARIA
RESC 14§1 HUNGARY
RESC 14§1 IRELAND

RESC 14§1 PORTUGAL
RESC 14§1 TURKEY
RESC 14§1 UKRAINE

RESC 14§2 BELGIUM
RESC 14§2 GEORGIA
RESC 14§2 IRELAND
RESC 14§2 TURKEY

RESC 23 FINLAND (1st, 4th and 5th grounds)
RESC 23 ITALY
RESC 23 MONTENEGRO
RESC 23 PORTUGAL
RESC 23 SLOVAK REPUBLIC
RESC 23 TURKEY

RESC 30 BELGIUM
RESC 30 FRANCE (2nd ground)
RESC 30 ITALY (1st ground)
RESC 30 UKRAINE

- Conclusions of non-conformity - Oral examination following the ECSR proposal

RESC 3§2 ALBANIA
RESC 3§2 ANDORRA
RESC 3§2 AUSTRIA
RESC 3§2 FRANCE
RESC 3§2 HUNGARY
RESC 3§2 REPUBLIC OF MOLDOVA
RESC 3§2 UKRAINE

RESC 11§1 AZERBAIJAN (1st ground)
RESC 11§1 FRANCE
RESC 11§1 GEORGIA
RESC 11§1 HUNGARY
RESC 11§1 REPUBLIC OF MOLDOVA
RESC 11§1 ROMANIA
RESC 11§1 RUSSIAN FEDERATION
RESC 11§1 UKRAINE

RESC 11§2 FRANCE

RESC 11§3 FRANCE

RESC 12§1 ARMENIA (2nd ground)
RESC 12§1 BULGARIA
RESC 12§1 CYPRUS (2nd and 4th grounds)
RESC 12§1 ESTONIA
RESC 12§1 FINLAND
RESC 12§1 GEORGIA (2nd ground)
RESC 12§1 HUNGARY
RESC 12§1 IRELAND (unemployment)
RESC 12§1 ITALY (2nd ground)
RESC 12§1 LITHUANIA (1st and 2nd grounds)
RESC 12§1 MALTA (1st ground (unemployment))
RESC 12§1 REPUBLIC OF MOLDOVA (2nd ground)

RESC 12§1 MONTENEGRO
RESC 12§1 ROMANIA (1st ground)
RESC 12§1 RUSSIAN FEDERATION
RESC 12§1 SLOVAK REPUBLIC (1st, 2nd and 3rd grounds)
RESC 12§1 SLOVENIA (1st and 3rd grounds)

RESC 12§4 AUSTRIA
RESC 12§4 BELGIUM (1st ground)
RESC 12§4 CYPRUS
RESC 12§4 FINLAND
RESC 12§4 ESTONIA (2nd. 3rd and 4th grounds)
RESC 12§4 ITALY (1st ground)
RESC 12§4 LITHUANIA (1st ground)
RESC 12§4 PORTUGAL (2nd ground)
RESC 12§4 SLOVENIA (1st and 2nd grounds)

RESC 13§1 ARMENIA (1st ground)
RESC 13§1 AUSTRIA
RESC 13§1 BELGIUM
RESC 13§1 BULGARIA (2nd ground)
RESC 13§1 ESTONIA
RESC 13§1 FINLAND
RESC 13§1 FRANCE (1st and 3rd grounds)
RESC 13§1 HUNGARY (2nd ground)
RESC 13§1 ITALY (2nd ground)
RESC 13§1 LITHUANIA
RESC 13§1 REPUBLIC OF MOLDOVA (1st and 2nd grounds)
RESC 13§1 MONTENEGRO
RESC 13§1 NORWAY
RESC 13§1 PORTUGAL
RESC 13§1 SERBIA
RESC 13§1 SLOVAK REPUBLIC

RESC 14§1 AZERBAIJAN
RESC 14§1 BELGIUM

RESC 23 FINLAND (2ns and 3rd grounds)
RESC 23 NETHERLAND
RESC 23 NORWAY
RESC 23 SERBIA
RESC 23 SWEDEN
RESC 23 UKRAINE

RESC 30 FRANCE (1st ground)
RESC 30 ITALY (2nd ground)
RESC 30 PORTUGAL

APPENDIX IV

LIST OF DEFERRED CONCLUSIONS

ALBANIA	RESC 11§2
ANDORRA	RESC 12§1, 12§4, 13§1, 14§1, 14§2, 23, 30
AUSTRIA	RESC 3§1
AZERBAIJAN	RESC 11§2
BELGIUM	RESC 3§3, 11§3
BULGARIA	RESC 3§4, 11§1
BOSNIA AND HERZEGOVINA	RESC 11§1, 11§2, 11§3, 12§2, 13§1, 13§3, 23
CYPRUS	RESC 3§1, 11§1, 11§3, 12§3
ESTONIA	RESC 3§1, 3§2, 3§3
FINLAND	RESC 13§4
GEORGIA	RESC 14§1
HUNGARY	RESC 3§1, 3§3
IRELAND	RESC 3§1, 3§2, 3§3, 11§1, 11§2, 12§3, 14§2
ITALY	RESC 3§3, 3§4, 11§1, 13§2
LITHUANIA	RESC 3§4, 11§1
MALTA	RESC 3§3, 14§2
MONTENEGRO	RESC 3§1, 3§2, 3§3, 3§4, 11§1, 11§2, 11§3, 12§2, 12§3, 12§4, 13§3, 14§1, 14§2
NETHERLANDS	RESC 3§3, 13§1, 13§4
ROMANIA	RESC 12§2, 12§3
RUSSIAN FEDERATION	RESC 3§2, 3§4, 11§2, 11§3, 14§1, 14§2
SERBIA	RESC 3§1, 3§2, 3§3, 3§4, 11§1, 11§2, 11§3, 12§2, 12§3, 13§4, 14§1, 14§2
SLOVAK REPUBLIC	RESC 3§3, 11§1, 11§2, 11§3, 12§3, 30
SLOVENIA	RESC 3§3, 3§4, 23
TURKEY	RESC 11§1, 12§1, 30
UKRAINE	RESC 11§3

APPENDIX V

WARNING(S) AND RECOMMENDATION(S)

NONE