



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

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

LITHUANIA

TABLE OF CONTENTS

I.	SUMMARY	3
II.	EXAMINATION OF THE NON-ACCEPTED PROVISIONS.....	5
III.	EXCHANGE OF VIEWS ON THE COLLECTIVE COMPLAINTS PROCEDURE.....	49
IV.	EXCHANGE OF VIEWS ON SEVERAL ACCEPTED PROVISIONS	51
	APPENDIX I Programme of the meeting on the non-accepted provisions of the European Social Charter	54
	APPENDIX II Situation of Lithuania with respect to the European Social Charter	58
	APPENDIX III Declaration of the Committee of Ministers on the 50 th anniversary of the European Social Charter	64

I. SUMMARY

1. Background

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

Following this decision, it was agreed that the European Committee of Social Rights would examine - in a meeting or by written procedure - the level of conformity of the country's situation, in law and in practice, with non-accepted provisions. This review would be done for the first time five years after the ratification of the Revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to forget that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon.

2. Previous Examinations

As Lithuania ratified the Revised Charter on 29 June 2001, accepting 86 out of 98 paragraphs, the procedure provided by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between the European Committee of Social Rights and representatives of various Lithuanian ministries in Vilnius on 27 October 2007.

A second meeting was organised in Vilnius on 21 June 2011. Following this meeting, the European Committee of Social Rights delegation confirmed that from the point of view of the situation in law and in practice there seemed to be no obstacles to the immediate acceptance of Articles 12§2, 13§4, 18§2, 18§3, 19§2, 19§8, 19§12, 23, 30 and 31§3, while further consideration was needed in respect of Articles 19§4 and 19§6.

3. Current Examination

With a view to carrying out the procedure for the third time in 2016, a new meeting was organised in Vilnius on 6 April 2016. It focused on the actual situation in Lithuania, in law and in practice, and the possible acceptance of the following provisions:

- 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*);
- 13§4 (*Specific emergency assistance for non-residents*);
- 18§2 (*Right to engage in a gainful occupation in the territory of other States Parties: Simplifying existing formalities and reducing dues and taxes*);
- 18§3 (*Right to engage in a gainful occupation in the territory of other States Parties: Liberalising regulations*);
- 19§2 (*Right of migrant workers and their families to protection and assistance: departure, journey and reception*);
- 19§4 (*Right of migrant workers and their families to protection and assistance: equality regarding employment, right to organise and accommodation*);
- 19§6 (*Right of migrant workers and their families to protection and assistance: family re-union*);
- 19§8 (*Right of migrant workers and their families to protection and assistance: guarantees applying to deportation*);
- 19§12 (*Right of migrant workers and their families to protection and assistance: teaching of migrants' mother tongue*);
- 23 (*Right of the elderly to social protection*);

- 30 (*Right to be protected against poverty and social exclusion*);
- 31§3 (*Right to affordable housing*).

The European Committee of Social Rights proceeded to the examination of the situation on the basis of the information provided by the government during the meeting and in writing (information submitted on 25 March 2016) and considered that there were no legal obstacles to the acceptance of Articles 12§2, 19§2, 19§4, 19§8, 19§12, 23 and 30. Further clarification of the situation in law and practice would be required with respect to Articles 13§4, 18§2, 18§3, 19§6 and 31§3 of the Charter.

An exchange of views also took place concerning certain accepted provisions, in respect of which the situation was not found to be in conformity with the Charter (Articles 4§5, 8§2, and 12§4) and concerning the 1995 Additional Protocol to the Charter providing for a system of collective complaints.

In view of the conclusions of this report, the Committee wishes to encourage Lithuania to consider accepting additional provisions of the Charter and the 1995 Additional Protocol as soon as possible, so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

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

The detailed programme of the meeting, including the list of speakers, appears in Appendix I.

The situation of Lithuania with respect to the Charter appears in Appendix II.

The next examination of the provisions not yet accepted by Lithuania will take place in 2021.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

The meeting was opened by Vydas Gedvilas, First Deputy Speaker of Seimas (Parliament) of the Republic of Lithuania and was chaired by Gintaras Klimavičius, Deputy Minister of Social Security and Labour.

The authorities of Lithuania presented the situation in law and in practice relating to the non-accepted provisions. Interventions were made by representatives of the Ministry of Social Security and Labour (Divisions of International Law; Financial Social Assistance; Social Insurance and Funded Pensions; Family Policy; Social Services; Social Insurance; Strategic Analysis; Social Housing; Labour Exchange; Labour Law); Ministry of Health (National Health Insurance Fund; Care Coordination Division); Ministry of Culture; Ministry of Interior (Migration Department); Ministry of Education and Science (see detailed Programme in Appendix I). Questions were also raised by some members of Parliament (Marija Aušrinė Pavilionienė and Mečislovas Zasčiurinskas).

The Committee delegation consisted of the President of the Committee, Giuseppe PALMISANO and József HAJDÚ. The Secretariat was represented by the Executive Secretary of the European Committee of Social Rights, Régis BRILLAT, and Elena MALAGONI. They presented some aspects of the case-law with regard to the non-accepted provisions and the possible acceptance of these provisions by Lithuania. Full information on the case-law is available in the Digest of the Case-Law of the European Committee of Social Rights.

Article 12§2 Right to social security: 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

Situation in Lithuania

The Government reported that, according to an analysis conducted in 2015, Lithuania could comply at the time with the requirements of the following parts of the European Code of Social Security:

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

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

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

Opinion of the Committee

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

The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No. 102, whereby six of the nine parts must be accepted although certain branches (for example medical care and old age, counting respectively for two and three parts) count for more than one part, and each contingency sets minimum levels of personal coverage and minimum levels of benefits.

Where that Code has not been ratified, the social security system is assessed (branches covered, personal scope, level of benefits offered) in order to decide on the conformity with Article 12§2. Findings under Article 12§1 are also taken into account.

In the light of these requirements, the Committee considered that Lithuania complied with nine parts of the Code. It accordingly recommended acceptance of Article 12§2. As Lithuania had not ratified the European Code of Social Security, the Committee would, however, request more detailed information on the branches covered, the personal scope and the level of benefits offered. In this connection, the Committee also encouraged the authorities to maintain their efforts in view of ratifying the European Code of Social Security.

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

Situation in Lithuania

The Government reported that in Lithuania, families with children are provided with support in a form of cash benefits. Low-income families are provided with other types of social assistance (social benefits, compensations for heating, drinking and hot water, free meals for children in schools, assistance for the acquisition of school supplies).

The Republic of Lithuania Law on Benefits to Children (Official Gazette *Valstybės žinios*, 1994, No. 89-1706; 2004, No. 88-3208) shall apply to permanent residents of the Republic of Lithuania, and aliens residing in the Republic of Lithuania who in compliance with the procedure established by the legislation are appointed as guardians (foster carers) of a child, being a citizen of the Republic of Lithuania, aliens with temporary permit to reside in the Republic of Lithuania for the purposes of highly qualified employment, aliens with temporary permit to reside and work in the Republic of Lithuania and who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed except for third-country nationals who have been admitted for the purpose of study and to children being aliens and residing in the Republic of Lithuania who in compliance with the procedure established by the legislation are placed under guardianship (foster care) in the Republic of Lithuania or the execution of whose guardianship (foster care) is taken over by a competent authority of the Republic of Lithuania.

The citizens of the member states of the European Union moving within the territory of the Community are paid child benefits pursuant to the EU regulations on the coordination of social security systems. Nationals of other foreign states are paid benefits in accordance with international agreements.

The Republic of Lithuania Law on Cash Social Assistance for Poor Residents (Official Gazette *Valstybės žinios*, 2003, No. 73-3352; 2011, No. 155-7353) establishes that the law shall apply to citizens of the Republic of Lithuania; aliens holding a permit of a long-term resident of the Republic of Lithuania to reside in the European Community; citizens of a Member State of the European Union and their family members who are issued in the manner prescribed by legal acts the documents confirming their right to reside in the Republic of Lithuania and who have been residing in the Republic of Lithuania for not less than three months; aliens who have been granted subsidiary protection or temporary protection in the Republic

of Lithuania, with the exception of those who during the integration period receive support from the funds designated for integration.

However, it should be noted that, in accordance with the existing legal regulation, persons who are temporarily residing in the Republic of Lithuania and don't have right to get cash social assistance accordance to the law are not left without any support. Municipal administrations have the right to allocate cash social assistance from their budgetary resources to persons lawfully residing in the Republic of Lithuania.

The Republic of Lithuania Law on Social Assistance for Pupils (Official Gazette *Valstybės žinios*, 2006, No. 73-2755; 2008, No. 63-2382) regulates the right to pupils from low-income families to free meals at school and assistance for the acquisition of school supplies. The right is granted to all children who study according to pre-primary or general education (primary, basic, secondary or special) curricula at general education schools, vocational schools, pre-school education schools or with any other provider of education services (except tutors). Granting of social assistance to pupils is not subject to the status of permanent or temporary residence of the family in Lithuania.

Pursuant to Article 1 of the Republic of Lithuania Law on Assistance in the Case of Death (Official Gazette *Valstybės žinios*, 1993, No. 73-1371, 2011, No. 77-3722), a funeral grant shall be paid in case of death of a person permanently residing in the Republic of Lithuania, in case of death in Lithuania of an alien residing in the Republic of Lithuania who has been issued a temporary residence permit for the purpose of highly qualified employment in the Republic of Lithuania, as defined in the relevant legal acts of the Republic of Lithuania, in case of death of an alien with temporary permit to reside and who have been authorised to work in Lithuania and who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed in Lithuania; in case of death of a person with the refugee status granted at the procedure prescribed by legislation in the Republic of Lithuania and in case of death in Lithuania of a person to whom this law must apply under the EU regulations on the coordination of social security systems, also in case of a stillborn child (after at least 22 weeks of pregnancy) or in case of death of a child under the age of 3 months and the residence has not been declared according to the laws in the Republic of Lithuania.

It is noteworthy that Council Regulations 1408/71 and 574/72 as amended by Regulations 883/2004 and 987/2009 of the European Parliament and of the Council on the coordination of social security systems are applicable in Lithuania. In accordance with the above legal acts, the EU, EEA or Swiss Confederation citizens covered with insurance and temporarily staying in the Republic of Lithuania are entitled to basic medical aid services, the expenses whereof shall be compensated from the Compulsory Health Insurance Fund.

The nationals of the European Union, the European Economic Area or the Swiss Confederation covered with insurance and residing in the Republic of Lithuania are also entitled to all personal health care services provided in the institutions of the National Health System of Lithuania under the same conditions as persons covered with compulsory health insurance in Lithuania.

Aliens to whom regulations coordinating social security systems are not applicable shall cover the cost of necessary healthcare services provided during their stay in the Republic of Lithuania themselves or use their private health insurance.

Opinion of the Committee

The Committee pointed out that Article 13§4 does not concern resident foreigners and does not require States to apply the guaranteed income arrangements under their social protection systems.

Article 13§4 specifically concerns nationals of other Contracting Parties who do not have resident status but are lawfully within the State's territory. By definition, no condition of length of presence can be set on the right to emergency assistance.

In accordance with a statement of interpretation adopted in 2013, the situation of foreigners in an irregular situation is no longer assessed under Article 13§4, but under Article 13§1.

States Parties are required to provide non-resident foreigners without resources with emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need. The provision of free emergency medical care must be governed by the individual's particular state of health.

Emergency assistance should be supported by an effective right to appeal to an independent judicial body.

In case of repatriation, the relevant provisions of the 1953 European Convention on Social and Medical Assistance must be respected (even if the State is not party to this Convention), namely the persons must be in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention) and repatriation may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds (Article 7.b of the 1953 Convention, see also Articles 8 to 10).

In the light of these requirements, the Committee stated that information concerning the emergency social and medical assistance available specifically to non-resident nationals of States parties to the Social Charter would be needed in order to assess the situation in Lithuania. It invited Lithuania to continue its consideration of this provision with a view to its possible acceptance in the near future.

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

Situation in Lithuania

The Government reported that, as regards the employment in Lithuania of aliens, third-country nationals:

- An alien, a third-country national, who arrives with an intention to work in the Republic of Lithuania, must obtain a work permit in the Republic of Lithuania, which is issued upon an employer's application filed with the local labour exchange office.
- An alien may be employed according to an employment contract or, when their permanent position is abroad, may be sent to temporarily work (is seconded) to the Republic of Lithuania.
- A work permit shall be issued to an alien with regard to the needs of the labour market of the Republic of Lithuania, if there is no specialist in Lithuania meeting the employer's qualification requirements. The principle of "Community preference" is applied, i.e. a third-country national may be employed in a vacancy, where it cannot be filled by a permanent Lithuanian resident or an EU resident.
- Employers who are in search of employees must inform local labour exchange offices about the job vacancies, work functions and nature of work, remuneration for work and other terms and conditions as well as qualification requirements for the applicants (pursuant to the Law on Support for Employment). If an employer does not reg-

ister vacancy with the local labour exchange office, the application on the issue of a work permit is not analysed.

- The employer who intends to employ an alien must submit documents certifying the qualification of an alien; moreover, a job record of an alien under the current professional qualification cannot be shorter than 1 year during the recent 2 years.
- A work permit shall specify the enterprise, agency or organisation where the alien will be employed, the address of the workplace and the job (position). An alien worker shall not be able to change either the workplace or the employer.
- The employer shall register the employment contract concluded with an alien in a local labour exchange office.
- An alien with a work permit shall be issued a temporary residence permit in the Republic of Lithuania by the Migration Department under the Ministry of the Interior.
- If the employment contract concluded with an alien is terminated, the temporary residence permit is withdrawn.

Highly qualified foreign workers, like other aliens, shall be issued a work permit according to the general procedure, and the test of the need of the labour market shall be applied, i.e. a vacancy must be registered in the labour exchange a week before and cannot be filled by a Lithuanian or EU resident during that period.

Since March 2015, aliens can work in Lithuania by acquiring one of these documents, issued by the Lithuanian Labour Exchange:

- a work permit;
- a decision on whether the alien's work responds to the needs of the labour market of the Republic of Lithuania;
- a decision on whether the alien's work requiring a high professional qualification responds to the needs of the labour market of the Republic of Lithuania.

The main legal acts regulating aliens' work in the Republic of Lithuania are:

- the Law on the Legal Status of Aliens (29 April, 2004);
- Procedure for the Issue of Work Permits to Foreign Nationals (19 March, 2015);
- Procedure for the Adoption of Decisions on whether the Foreign National's Work Requiring a High Professional Qualification responds to the needs of the Labour Market of the Republic of Lithuania (28 December, 2012);
- Procedure for the Adoption of Decisions on whether the Foreign National's Work Responds to the Needs of the Labour Market of the Republic of Lithuania (19 March, 2015).

An employer wishing to employ an alien under an employment contract must submit an application for a work permit or a decision to the local labour exchange office together with the following documents:

1. a copy of a valid travel document issued to the alien;
2. a copy of the alien's diploma or another document verifying his qualifications;
3. a copy of a recommendation on the assessment of foreign qualifications, issued by the Centre for Quality Assessment in Higher Education (hereinafter referred to as the TRP CQAHE), together with a copy of the alien's diploma or another document verifying her/his qualifications in cases when the relevant profession is not regulated in the Republic of Lithuania but higher educational attainment is required. A local labour exchange may request the employer, based on the recommendation of CQAHE, to submit a copy of a CQAHE decision on academic recognition of a foreign qualification according to the Procedure for the Recognition of Educational Attainment and Qualifications Related to Higher Education and Acquired under Educational Programmes Offered by Foreign

- States and International Organisations approved by Resolution of the Government of the Republic of Lithuania No. 212 of 29 February, 2012;
4. a copy of a competent body's decision on recognition of the person's professional qualifications as established in the Resolution of the Government of the Republic of Lithuania No 1069 of 14 September, 2011 'Concerning Recognition of Regulated Professional Qualifications of Third-Country Nationals' if the relevant profession is regulated in the Republic of Lithuania according to the List of Professions Regulated in the Republic of Lithuania approved by Order of the Minister of the Economy No 4-486 of 15 July, 2014 'Concerning approval of the List of Professions Regulated in the Republic of Lithuania';
 5. a copy of the document verifying the alien's one-year work experience according to her/his professional qualifications over the past two years; (not required for a decision on whether the alien's work requiring a high professional qualification responds to the needs of the labour market of the Republic of Lithuania)
 6. an employer's certificate stating information on: (not required for a decision on whether the alien's work requiring high professional qualification responds to the needs of the labour market of the Republic of Lithuania)
 - 6.1. the necessity to employ the alien;
 - 6.2. dismissals within 3 months prior to the date of application (stating the reasons for dismissal and the qualifications and functions of the dismissed employees);
 - 6.3. information on the average pay if the entity has more employees in the same jobs as the job for which an alien's work permit is requested.

The Lithuanian Labour Exchange issues a work permit with regard to international commitments and labour market needs of the Republic of Lithuania and basing on the conclusion of the local labour exchange office. A work permit in the Republic of Lithuania is issued for a period of up to 2 years, and an alien must obtain it before entering Lithuania. In case of seasonal work, a work permit is issued to an alien for a period of up to 6 months within a year; the period starts on the first day of coming to the Republic of Lithuania. An alien who comes to work as a trainee shall be issued a work permit for the period of one year.

Being a member state of the European Union, the Republic of Lithuania keeps to the principle to admit as many economic migrants as necessary to meet the needs of the internal labour market. Economic immigration of third-country nationals does not have to promote the economic emigration of the nationals of the member state. Lithuania holds the position that migrant workers should not be applied a simplified procedure for the issuance of a temporary residence permit, because economic migration is and should remain of a temporary nature.

A decision on whether the alien's work requiring a high professional qualification responds to the needs of the labour market of the Republic of Lithuania is issued when an employer wishes to employ a highly qualified specialist from abroad and pay her/him not less than double the average national gross salary (around €1470,2). If salary is 3 times larger than the average national gross salary (€2205,3), it is possible to use a simplified procedure and apply directly to the Migration Department under the Ministry of the Interior of the Republic of Lithuania for an issue of temporary residence permit (EU Blue Card).

The following amounts of state fees shall be charged for the issuance of work permits to aliens by Resolution No. 1458 "On the Approval of the Rules for Specific Amounts of State Fees and Payment and Refund of These Fees" of the Government of the Republic of Lithuania dated 15 December 2000 (Official Gazette *Valstybės žinios*, 2008, No. 73-2835):

- For the issuing of a work permit for a period of up to 1 year – €121
- For the extension of a work permit – €52
- For the issuing of a work permit for a period of up to 2 years – €150

- For the issuing of a work permit for a period of 1 year for students or the participants of international treaties on youth exchange signed by the Republic of Lithuania – free of charge
- For the issuing of a work permit for seasonal work – €34
- For the issuing of a duplicate of the work permit – €8,60
- For the adoption of a decision on whether the alien's work requiring a high professional qualification responds to the needs of the labour market of the Republic of Lithuania – €28
- For the adoption of a decision on whether the alien's work responds to the needs of the labour market of the Republic of Lithuania – €28

A temporary residence permit in the Republic of Lithuania (hereinafter referred to as the TRP) may be issued to an alien who intends to take up employment in the Republic of Lithuania if he:

- 1) is in possession of a work permit pursuant to point 2 and 3 of paragraph 1 of Article 57 of the Law on the Legal Status of Aliens of the Republic of Lithuania (hereinafter referred to as the Law) (an alien intends to do seasonal work or to work as an intern or trainee, or sent for temporary work in the Republic of Lithuania);
- 2) has been exempted from the obligation to obtain a work permit pursuant to points 5 and 6 of Article 58 of the Law;
- 3) fulfils the following conditions (point 3 of paragraph 1 of Article 44 of the Law):
 - a) the alien presents the employer's written undertaking to recruit him under an employment contract for the period of not less than six months;
 - b) the alien presents the document attesting to the alien's qualification and at least one-year work experience in a qualification-related occupation over the last two years. The requirement of work experience shall not apply to the alien who has intends to take up employment in a qualification-related occupation after he finishes studies or completes a vocational training programme in the Republic of Lithuania.
 - c) the Lithuanian Labour Exchange under the Ministry of Social Security and Labour (hereinafter: the 'Lithuanian Labour Exchange') takes, in accordance with the procedure laid down by the Minister of Social Security and Labour, a decision that the alien's employment meets the needs of the labour market of the Republic of Lithuania.

If an alien fulfils the conditions set out in point 3 of paragraph 1 of Article 44:

- A TRP may be renewed if an alien intends to continue employment in the Republic of Lithuania;
- An alien or an employer who commits himself to recruit the alien may submit an application for the issue of a TRP;
- TRP shall be issued or renewed for the period of his employment in the Republic of Lithuania, but for not longer than two years.

An alien's application for the issue of a TRP may be examined in conjunction with an application for the issue of a work permit.

A TRP may be renewed if an alien is exempted from the obligation to obtain a work permit as provided for in points 5 and 6 of Article 58 of the Law.

An alien who intends to take up employment shall be issued a TRP for the period for which the work permit issued to him is valid, but for not longer than two years. If the alien is exempted from the obligation to obtain a work permit, a TRP shall be issued or renewed for the period of his employment in the Republic of Lithuania, but for not longer than two years.

Upon the expiry of a work permit or the end of employment in the Republic of Lithuania, an alien must leave the Republic of Lithuania.

A TRP may be issued or renewed to an alien who intends to take up highly qualified employment if he fulfils the following conditions:

- 1) the employer's written undertaking to recruit the alien under an employment contract for the period not shorter than one year and to pay him a monthly wage not less than two amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania;
- 2) a document is submitted proving that the alien fulfils the conditions set out in legal acts of the Republic of Lithuania to carry out regulated professional activities specified in the employment contract, and if professional activities are not regulated – a document proving his higher professional qualification;
- 3) the Lithuanian Labour Exchange takes, in accordance with the procedure laid down by the Ministry of Social Security and Labour, a decision that the alien's employment meets the needs of the labour market of the Republic of Lithuania, with the exception of the cases of submission of the employer's written undertaking to recruit the alien for the period not shorter than one year under an employment contract and to pay a monthly wage not less than three amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania or where the alien's temporary residence permit, issued for highly qualified employment, is renewed and two years of alien's legal employment in the Republic of Lithuania have lapsed.

An application for a TRP may be lodged by an alien who intends to take up highly qualified employment or by the employer who undertakes to recruit the alien.

An alien who intends to get highly qualified employment shall be issued a TRP or it shall be renewed for him for the period of three years, and if an employment contract is concluded for the period of less than three years – for the period of the validity of the employment contract plus three additional months.

For the first two years of legal employment in the Republic of Lithuania, an alien to whom a TRP is issued or renewed as to a person recruited for highly qualified employment may be employed only with the employer who invited the alien for highly qualified employment. If during the first two years of legal employment in the Republic of Lithuania an alien wishes to change the employer, he must lodge with the Migration Department an application to change the employer not later than three months prior to the conclusion of an employment contract with a new employer. Having checked whether or not the alien fulfils the conditions of highly qualified employment, the Migration Department takes a decision concerning the change of the employer.

An alien's application for the issue or renewal of a residence permit must be examined:

- 1) regarding the issue of a TRP, except for the case specified in points 2 and 2¹ of this paragraph - not later than within four months from the lodging an application with the relevant institution;
- 2) regarding the issue of a TRP for the purpose of highly qualified employment of the alien, where the employer undertakes to recruit the alien under the employment contract and to pay him a monthly wage not less than two and not more than three amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania – not later than within two months of the lodging of an application with the appropriate institution;
- 3) regarding the issue of a TRP for the purpose of highly qualified employment of the alien, where the employer undertakes to recruit the alien under the employment contract and to pay him a monthly wage not less than three amounts of average gross monthly earnings in the whole economy most recently published by the Department

- of Statistics of Lithuania – not later than within one month of the lodging of an application with the appropriate institution;
- 4) regarding the renewal of a TRP – not later than within two months of the lodging of an application with the appropriate institution.

The Government indicated that in 2015 around 7000 work permits had been issued, mostly to employed people (around 1000 concerned posted employees) and that in practice the delay for getting a work permit was in average 2-3 weeks. The same delay applied to the issuing of Blue Cards (84 Blue Cards were issued in 2015). It furthermore indicated that the Labour Exchange was taking measures aimed at simplifying the formalities for the employers, which would allow them to file electronic applications.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, recalling the link existing between, on the one hand, the first paragraph of Article 18 – which Lithuania has accepted – and the second and third paragraphs of that Article.

It pointed out that Article 18§2 deals specifically with formalities and dues and other charges applying in respect of the employment of foreign workers.

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application and within a reasonable time.

The dues and charges paid either by foreign workers or by their employers must not be set at a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers. In this respect, States are required to demonstrate that they have taken measures to progressively reduce the level of fees and other charges payable by foreign workers or their employers.

In the light of these requirements, the Committee considered that, while the level of fees and the time needed for obtaining a work permit did not seem to raise problems of conformity with the Charter, further information would be needed in order to assess the situation of Lithuania. In particular, information would be needed as to whether it is possible as a rule, and not only as an exception, to obtain the residence and work permit through a single procedure. Information would furthermore be needed as regards the formalities and fees applying in respect of foreigners (in particular, nationals of non-EEA states parties to the Charter) wishing to access the Lithuanian labour market as self-employed. The Committee accordingly invited Lithuania to continue its consideration of this provision with a view to its possible acceptance in the near future.

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

Situation in Lithuania

The Government reported that, due to growing economy and emigration since the end of 2006, the Lithuanian labour market has observed a shortage of labour force (in particular, in transport, services and construction sectors). Since 2015 the *List of Deficit Professions in Lithuania* has been compiled and approved by the order of the Lithuanian Labour Exchange under the Ministry of Social Security and Labour. The list specifies the professions where deficit has been recorded and limiting the opportunities of the company's activity. Referring to this list, aliens already working in Lithuania are provided with the opportunity to obtain a new work permit for another 2 years without having left the Republic of Lithuania. The list of

deficit professions is compiled with regard to the following evaluation criteria: the unemployment level and its forecasts, the demand for labour force (the demand doubles the supply); job vacancies that cannot be filled (a vacancy is not filled for more than 3 months or the supply for labour force meeting qualification requirements has been absent for more than 3 months); the professions of aliens working in Lithuania.

As regards the changes intervened in 2012-2015:

A foreigner, who is intending to work in the Republic of Lithuania, shall acquire one of the following permits:

- a) Work permit, which grants the right to employment. All foreigners intending to work either under labour contract, or as posted, seasonal workers, apprentices and trainees shall obtain work permit and visa before their arrival. Work permit while staying in the Republic of Lithuania may be issued to third country students, who are admitted to study at the Republic of Lithuania science and study institutions.
- b) Permit for a temporary stay and work (hereinafter – Single Permit) (according to the Directive 2011/98/EU), which grants the right to reside legally for the purpose of work in the country. This condition is applied to foreigners intending to work under labour contract - workers specialists (experts), who have no less than 1 year working experience according to the acquired occupational qualification within the period of last two years.
- c) Permit for a temporary stay in the case of intending to work in the position of highly qualified employment (hereinafter – the EU Blue Card) (according to the Directive 2009/20/EC), which grants the right to reside and work in the position of highly qualified employment. This condition is applied to foreigners intending to work under labour contract – specialists (experts) with higher (university) education and with the wage of no less than 2 statistic average or 3 statistic average wages.

The expiry date of permits:

- a) Work permit is issued for the period of up to one year. At the expiry date of the work permit the foreigner shall leave Lithuania. If labour contract with the foreigner is terminated, his/her work permit shall be withdrawn.
- b) Single Permit is issued for the period of up to 2 years. If labour contract with the foreigner is renewed, the permit shall be changed. In the case labour relations are discontinued, the foreigner shall leave the country.
- c) The EU Blue Card is issued for the period of 3 years, and if the labour contract is concluded for a shorter period – for the period of the duration of the labour contract and for 3 months more. Within the period of the first two years of legal employment the foreigner shall inform the Migration Department under the Ministry of Interior on the change of employer. Foreigners, who have obtained the EU Blue Cards may bring in their families, travel to other member states to seek employment, acquire the status of a long-term EU resident after staying in the EU for 5 years, and enjoy equal rights with the EU citizens.

Upon the expiry of a work permit or the end of employment in the Republic of Lithuania, an alien must leave the Republic of Lithuania. As regards the conditions for a TRP to be issued or renewed, the Government referred to the information provided under Paragraph 2 of Article 18 of the European Social Charter.

Labour relations of the above mentioned foreigners are regulated by the Labour Code, the law and the EU legislation. Employers shall register labour contracts concluded with foreigners at the Territorial Labour Exchange. Assessment of labour market needs shall be carried out before the employment of foreigners. An Employer, who is willing to hire a foreigner, shall register the vacancy indicating the qualifying requirements and apply to the territorial labour exchange concerning the issue of work permit or taking the decision, that the work of the foreigner meets the needs of the labour market in Lithuania. The third country worker

may be employed only in the case there are no permanent resident of Lithuania or an EU citizen willing to be employed accordingly. Moreover, the foreigner shall satisfy the set qualifying requirements. Such foreigner may only work for the employer, who undertook to hire him/her.

In 2015 amendments were made providing for the possibility to attract and keep on the labour market more skilled labour force from third countries. It provided the possibility to receive the EU Blue Card for foreigners, who have acquired higher education in the Republic of Lithuania and are intending to work in the position of highly qualified employment, and for foreigners (specialists, experts), who have been working under labour contract in Lithuania having acquired a work permit or One permit. Changes in the requirements on procedures concerning the assessment of high vocational qualification of the foreigner (where the decision of the Study Quality assessment centre (SKVC) is substituted by the SKVC recommendation concerning the assessment of the qualification of a foreigner) has practically shortened the real time (up to one month) for issuing the EU Blue Card. There is also a possibility provided to receive Single Permit for third country nationals, who have arrived in Lithuania for any other than employment purposes and have acquired the temporary residence permit in the Republic of Lithuania, and are willing to work under labour contract. Also, the registration time of a vacancy at the territorial labour exchange has been shortened (up to 7 days).

The Government furthermore indicated the following projects which were under development in 2016:

1. Draft law concerning amendments to the Law on the Legal Status of Aliens No IX-2206 is in the process of coordination. The amendments are related with the transfer of provisions of the Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OL 2014 L 94, p. 375) into the national legislation.
2. The Interior Ministry is in the final stage of coordinating the draft law on amendments to the RL Law on the Legal Status of Aliens aimed at establishing more favourable immigration rules for aliens. It suggests:
 - To enlarge to circle of aliens, who could claim the EU Blue Card, by changing the amount of the wage the employer is supposed to pay to the foreigner in highly qualified employment, i.e. reduce the amount of wage as currently set and last announced by the Statistics Lithuania of 2 gross average monthly earnings in the national economy (according to the data of the 3d quarter of 2015, it is not less than €1 470.2 gross monthly earnings) to 1.5 amount (making it €1 102.65 monthly gross wage and salary);
 - Establish that foreigners may be exempt from the duty to obtain work permit, if they have a profession that is included in the List of Professions approved by the Lithuanian Labour Exchange every six months on workers, which are in demand on the Lithuanian labour market. Such foreigners, having obtained national visa, could arrive for employment quicker. It is also suggested to refuse from the assessment of such foreigners on meeting the Lithuanian labour market needs in the case of issuing One permit. It could facilitate and speed up the procedures for employers while attracting workers of missing occupations to work at Lithuanian enterprises, reduce costs (state duty would not be required for issuing work permits or the decision of the Lithuanian Labour Exchange). For the first six months of 2016 the List includes 4 professions: in the sector of industry (welders and metal ship body fitters) and in the sector of services (drivers of international cargo transport means and a cook in a restaurant);
 - Refuse from the requirement to obtain work permit for aliens, who are temporarily posted for no longer than one year to work at an enterprise in the Republic of

Lithuania according to the agreement concluded between the two enterprises on providing services or completing work as specialists according to the acquired vocational qualification.

Article 58 of the Law on the Legal Status of Aliens (29 April, 2004) stipulates the cases when an alien is not required to acquire a work permit.

An alien who has acquired a decision on whether the alien's work responds to the needs of the labour market of the Republic of Lithuania and wishes to continuously work in the Republic of Lithuania can apply for a new decision on whether the alien's work responds to the needs of the labour market of the Republic of Lithuania no later than 2 months prior and no earlier than 4 months prior to the expiry of the temporary residence permit issued under Article 44(1)3 of the Law on the Legal Status of Aliens. The alien is not required to leave the country.

An employer can conclude an employment contract only with an alien who has acquired a work permit, except the cases stipulated in the Article 58 of the Law on the Legal Status of Aliens.

The alien's pay may not be lower than the pay paid by the same employer for the same work to a resident of the Republic of Lithuania.

Employers' obligations related to the work of aliens are stated in the Article 98¹ of the Labour Code of the Republic of Lithuania. Employers have the following obligations related to the work of aliens:

1. to request a valid residence permit or another document, granting the alien right to stay or live in the Republic of Lithuania no less than 1 working day prior to the scheduled employment contract conclusion day;
2. to keep the copy of the aliens' valid residence permit or another document, granting her/him the right to stay or live in the Republic of Lithuania, during the period of the aliens' work and, by request, to provide it to a competent body;
3. to ensure that an alien would be doing only that work, which is stated in the work permit, except cases when an alien is not required to acquire a work permit as stated in the Law on the Legal Status of Aliens;
4. to provide the Lithuanian Labour Exchange under the Ministry of Social Security and Labour with a notice in writing about the termination of an alien's employment contract within 3 working days after its termination;
5. to provide the contractor with a notice in writing about the conclusion of an employment contract with an alien in no less than 3 work days after its conclusion when an employer is a subcontractor.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, insisting on the fact that this provision concerned not only employed work but also self-employed work and highlighting that under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

- Access to the national labour market:

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements to be met.

States Parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties, in general, from

occupying jobs for reasons other than those set out in Article G of the Charter. The only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

In order not to be in contradiction with Article 18 of the Charter, the implementation of policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of accessing the national labour market. Such a situation, deriving from the implementation of “priority rules”, i.e. rules giving priority in the access to the national labour market to foreign workers from other European States members of the same economic area, would not be in conformity with Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter.

The States Parties’ engagement in liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers. A requirement that foreign worker be in possession of certificates, professional qualifications or diplomas issued only by national authorities, schools, universities, or other training institutions, without opening the possibility of recognising as valid and appropriate substantially equivalent certificates, qualifications or diplomas issued by authorities, schools, universities or other training institutions of other States parties, which have been obtained as a result of training courses or professional careers carried out within other States Parties, would represent a serious obstacle for foreign workers to access the national labour market, and an actual discrimination against non-nationals. For this reason, States Parties must make efforts to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, progressively reducing the disadvantages for foreign workers to engage in a gainful occupation due to lack of recognition of foreign diplomas or professional qualifications substantially equivalent to those issued by national authorities, schools, universities or other training institutions.

– Right to engage in an occupation:

A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted.

– Rights in the event of loss of employment:

Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. In case a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8. In such cases, Article 18 requires extension of the validity of the residence permit to provide sufficient time for a new job to be found.

In the light of these requirements, the Committee considered that further information would be needed to assess the situation of Lithuania. In particular the following issues should be addressed or clarified:

- what conditions apply in respect of foreigners (in particular, nationals of non-EEA states parties to the Charter) wishing to access the Lithuanian labour market as self-employed;
- are there any (employed or self-employed) jobs from which foreign nationals are excluded by law;
- does the national labour market test apply automatically to all non-EEA nationals of states parties to the Charter or are there any exceptions (in addition to those applying to Blue Card workers), for example on the basis of bilateral agreements?
- is the renewal of residence and working permits (for employed and self-employed) subject to less stringent conditions than those applying when issuing the initial authorisations? After what period of time the restrictions applying to a foreign worker are lifted?
- If, for reasons independent of the worker's control, the work permit comes to an end before the expiry of the residence title, is the latter automatically revoked or can it remain valid for a time sufficient for the worker to find a new job?

The Committee invited Lithuania to continue its consideration of this provision with a view to its possible acceptance in the near future.

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

Situation in Lithuania

The Government referred to the Law on the Legal Status of Aliens of the Republic of Lithuania (Official Gazette, 2004, No. 73-2539) as the principal legal act regulating the legal status of aliens.

Pursuant to subparagraphs 3 and 4 of Article 40(1), a TRP may be issued or replaced to an alien if the alien intends to work in the Republic of Lithuania or in case of family reunification.

Article 44(1) provides that a TRP may be issued to an alien who intends to work in the Republic of Lithuania, provided that the alien holds a work permit or has been exempted from an obligation to obtain a work permit or fulfils the following conditions:

- a) the alien presents the employer's written undertaking to recruit him under an employment contract for the period of not less than six months;
- b) the alien presents the document attesting to the alien's qualification and at least one-year work experience in a qualification-related occupation over the last two years. The requirement of work experience shall not apply to the alien who has intends to take up employment in a qualification-related occupation after he finishes studies or completes a vocational training programme in the Republic of Lithuania.
- c) the Lithuanian Labour Exchange takes, in accordance with the procedure laid down by the Minister of Social Security and Labour, a decision that the alien's employment meets the needs of the labour market of the Republic of Lithuania.

An alien must obtain a work permit before entering the Republic of Lithuania, the Minister of Social Security and Labour together with the Minister of the Interior shall set the conditions and procedure for the issue of a work permit (Article 57 of the Law). An alien who intends to take up employment shall be issued a TRP for the period for which the work permit issued to him is valid, but for not longer than two years. If the alien is exempted from the obligation to obtain a work permit or he fulfils the conditions set out in point 3 of paragraph 1 of Article 44, a TRP shall be issued or renewed for the period of his employment in the Republic of Lithuania, but for not longer than two years. An alien who intends to get highly qualified employment shall be issued a TRP or it shall be renewed for him for the period of three years, and if an employment contract is concluded for the period of less than three years – for the period of the validity of the employment contract plus three additional months.

An alien or an employer who commits himself to recruit the alien may submit an application for the issue of a temporary residence permit in pursuance of point 3 of paragraph 1 of Article 44.

An alien's application for the issue of a temporary residence permit may be examined in conjunction with an application for the issue of a work permit.

In accordance with Article 43, a TRP may be issued to an alien in the event of family reunification if the alien's spouse or the person with whom a registered partnership has been contracted resides in the Republic of Lithuania and who is in possession of a residence permit (both of the alien spouses or aliens who have contracted a registered partnership may not be younger than 21 years), also if the parents of the minor alien or one of them or the spouse of one of them in whose guardianship the minor alien is, is in possession of a residence permit and resides in the Republic of Lithuania. Such an alien (family member) may be issued or replaced a TRP if he meets the conditions laid down in subparagraphs 2 to 4 in Paragraph 1 of Article 26 of this Law or the person whom he is joining for family reunification ensures that his family member meets the said conditions in accordance with the procedure laid down by laws.

These paragraphs of the Law stipulate that a residence permit may be issued or replaced to an alien if the alien (family member):

1. has a valid document evidencing health insurance coverage when, in the cases established by the laws of the Republic of Lithuania, he is not covered by compulsory health insurance, or, in the cases and in accordance with the procedure established by the Government of the Republic of Lithuania, he has a confirmed commitment of a citizen of the Republic of Lithuania or an alien residing in the Republic of Lithuania to cover the costs of the health care services provided to him during the period of his residence in the Republic of Lithuania;
2. has adequate means of subsistence and/or receives regular income which is sufficient for his stay in the Republic of Lithuania;
3. possesses by the right of ownership the suitable residential premises in the Republic of Lithuania in which he intends to declare his place of residence, provided that the residential area per each adult person who has declared the place of residence at it would not be less than seven square metres, or uses the said residential premises under a lease or loan for use contract, provided that the duration of the relevant contract is not shorter than the period of validity of the TRP and has been registered in accordance with the established procedure, or presents a letter of commitment of a natural or legal person, verified in accordance with the procedure laid down in legal acts, to provide him with suitable residential premises at which he will declare his place of residence and which will meet the requirements for residential area per person for the period of validity of the TRP. The requirement of the residential area of the suitable residential premises shall not apply to an alien to whom a TRP has been issued or renewed on the grounds laid down in point 4 of paragraph 1 of Article 40 of the Law, where the employer has recruited him under an employment contract to do the work related to regular travelling on international routes or where the employer posts him to perform work in any other EU Member State or a Member State of the European Free Trade Association under a contract for provision of services or performance of works in that Member State, during the period of work of the said alien in that State.

The following aliens shall not have the right to family reunification:

- 1) the aliens who have submitted applications for asylum in the Republic of Lithuania - until a final decision to grant asylum is taken;
- 2) aliens who have been granted temporary protection in the Republic of Lithuania;

3) aliens who have been granted asylum in the Republic of Lithuania, if their family members would not be granted asylum in the Republic of Lithuania pursuant to Article 88(2)(3) to (5) or Article 88(3) of the Law.

In accordance with Paragraph 26 of Article 2 of the Law, family members mean the spouse or the person with whom a registered partnership has been contracted, minor children/adopted children (hereinafter 'children'), including the minor children of the spouse or the person with whom a registered partnership has been contracted, on condition that they are not married and are dependent, as well as direct relatives in the ascending line who have been dependent for at least one year and are unable to use the support of other family members residing in a foreign country.

Paragraph 6 of Article 43 of the Law lays down that the alien whose family members enter for family reunification must have resided in the Republic of Lithuania for the last two years, hold a TRP valid for at least one year and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania. This provision shall not apply when the family members join the alien:

- 1) who has been granted asylum in the Republic of Lithuania;
- 2) who holds a TRP issued on the grounds established in Article 40(1)(41) (the alien intends to take up highly qualified employment in the Republic of Lithuania) or (13) of the Law;
- 3) who holds a TRP issued on the grounds established in 40(1)(14) of the Law. The alien may exercise this right if the family has already been concluded in the EU Member State in which the alien has acquired the long-term resident status;
- 4) who has arrived to participate in a traineeship at higher education and research institutions of the Republic of Lithuania under international treaties of the Republic of Lithuania or under the European Union academic exchange programmes with third countries;
- 5) who, being directly involved in projects of importance to the State, has invested in the Republic of Lithuania any property owned, borrowed or managed and used by the right of trust.
- 6) who holds a TRP issued on the grounds set out in Article 45(1)(1) and meets the requirements laid down in Article 45(3) of the Law;
- 7) who has entered the Republic of Lithuania for a period not exceeding three years to take up employment at a representative office or branch of a foreign enterprise or at an enterprise which belongs to the same group of enterprises established in the Republic of Lithuania, where the alien is employed as the manager or as a professional, provided that before his entry into the Republic of Lithuania the alien was employed at that foreign enterprise not less than for the last one year, his expertise or high professional qualification is necessary for activities of the enterprise, representative office or branch established in the Republic of Lithuania and during his employment in the Republic of Lithuania he is paid a wage not less than two amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania.

In the case of family reunification, an alien shall be issued a TRP for the same period as for the alien whom he is joining, and if an alien's TRP is withdrawn, TRPs of the alien's family members living together with him shall also be withdrawn, except in cases where they are entitled to reside in the Republic of Lithuania on other grounds set by the Law (Paragraphs 1 and 3 of Article 50 of the Law).

Articles 136 to 139 establish that decisions made in accordance with the Law may be appealed against in accordance with the procedure established by the Law and the Law on Administrative Proceedings. An appeal against a decision made in accordance with the Law may be lodged with the appropriate administrative court in the manner and under the conditions established by the Law on Administrative Proceedings, except in cases provided for by the Law, within 14 days from the day of service of the decision.

The implementation of the decision appealed against shall be suspended when:

- 1) the alien's residence permit is withdrawn;
- 2) the alien who has lodged an asylum application is not granted temporary territorial asylum in the Republic of Lithuania and is obliged to depart from the Republic of Lithuania or is expelled from it to a safe third country or the country of origin;
- 3) the alien is refused asylum and is obliged to depart from the Republic of Lithuania, is expelled from it or returned to a foreign country, the examination of the asylum application is terminated or the granted asylum is withdrawn;
- 4) the alien is expelled from the Republic of Lithuania (if an administrative court makes an order to apply provisional measures except in cases where the grounds for expulsion are related to a threat to national security or public policy).

Pursuant to paragraph 1 of Article 6 of the Law on Health Insurance the following people shall be eligible for compulsory health insurance: citizens of the Republic of Lithuania and aliens permanently residing in the Republic of Lithuania; aliens temporarily residing in the Republic of Lithuania, provided that they are legally employed in the Republic of Lithuania as well as under-age members of their families, unaccompanied under-age aliens; most socially vulnerable aliens and aliens who have received additional protection in the Republic of Lithuania. The cost of healthcare provided to the aliens who have received temporary protection in the Republic of Lithuania is covered from the State budget resources.

The requirements for buildings of temporary accommodation of foreigners Registration center, which are newly constructed, reconstructed, renovated and which are used for aliens who have illegally arrived in the Republic of Lithuania or are illegally staying in the Republic of Lithuania and asked for a refugee status, are established in Lithuania hygiene norm HN 61:2005 „Foreigners registration center. Hygienic norms and rules.”

According to the Law on Social Integration of the Disabled of the Republic of Lithuania citizens of the Republic of Lithuania as well as aliens residing in the Republic of Lithuania who have been issued a temporary residence permit as intending to perform a job requiring high professional skills in the Republic of Lithuania shall be entitled to the establishment of the working capacity level and the establishment of special needs.

By Resolution No. 1228 „On the Submission of the Draft Law Amending Articles 1, 11, 16, 17, 18, 25 of the Republic of Lithuania Law on Social Integration of the Disabled and Supplementing the Law with Appendix to the Seimas of the Republic of Lithuania“ dated 2 December 2015, the Government of the Republic of Lithuania submitted the draft Law Amending Articles 1, 11, 16, 17, 18, 25 of the Republic of Lithuania Law on Social Integration of the Disabled and Supplementing the Law with Appendix for the deliberation of the Parliament of the Republic of Lithuania. The draft lays down that the provisions that the Law on Social Integration of the Disabled applies to citizens of Lithuania, nationals and their family members of the member states of the European Union, who have the documents confirming their right to reside in the Republic of Lithuania, also for persons, who, under the social security coordination regulations of the European Union shall be subject of this law, and foreigners who has issued a long term residence permit of the Republic of Lithuania in the European Union.

Opinion of the Committee

The Committee pointed out that Article 19§2 does not provide for a right of establishment and accordingly does not concern the conditions under which foreign nationals are entitled to residence or working titles (these aspects being assessed under Article 18 as regards foreign workers). It furthermore does not concern entitlement to health insurance, integration of disabled people or migrants who are in an illegal situation.

Article 19§2 concerns instead both foreign workers lawfully migrating to the concerned country and national workers wishing to migrate to another country.

This provision obliges States Parties to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception.

Reception must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures. Reception means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty.

The obligation to "provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey" relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment. This aspect of Article 19§2 does not apply to forms of individual migration for which the state is not responsible. In such cases, the need for reception facilities would be all the greater.

In the light of these requirements, the Committee considered that there was no indication than the situation of Lithuania had changed, compared to its previous assessment in 2013, when it had considered that Lithuania may be in a position to accept Article 19§2, provided that measures regarding also short-term accommodation and shortage of money for migrant workers and their families were in place. It accordingly recommended acceptance of Article 19§2.

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

Situation in Lithuania

The Government referred to Article 2(1)(4) (Principles of Legal Regulation of Labour Relations) of the Labour Code of the Republic of Lithuania as regards the rules governing the amounts of wages and work conditions. This article provides for the equality of subjects of labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion, marital and family status, age, opinions or views, political party or public organisation membership, factors unrelated to the employee's professional qualities.

Pursuant to Article 186(3) of the Labour Code, the wage of an employee shall depend upon the amount and quality of work, the results of the activities by the enterprise, agency or organisation as well as the labour demand and supply on the labour market. Men and women shall get an equal pay for equal or equivalent work, i.e. the amounts of work pay shall not be related to nationality.

According to Article 187(1) of the Labour Code, the Government, upon the recommendation of the Tripartite Council, shall determine the minimum hourly pay and the minimum monthly wage. Upon the recommendation of the Tripartite Council, the Government may establish different minimum rates of the hourly pay and the minimum monthly wage for different branches of economy, regions or categories of employees. Paragraph 2 of the Article stipulates that collective agreements may establish higher rates of the minimum wage than those referred to in Paragraph 1 of this Article. The hourly pay or the monthly wage of an employee may not be less than the minimum rates referred to in Paragraphs 1 and 2 of this Article.

The above guarantees of the Labour Code shall apply to all employees working under employment contracts.

In 2013 the Article 2.38 of the Civil Code was amended by the Law No. XII-365, which provides that a trade union may be founded by Lithuanian citizens and foreigners who have legal capacity to work.

The provisions concerning housing, which lay down that the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing (became effective on 1 January 2015), regulates state support for the acquisition of housing and support for the rental of housing – renting social housing or paying a compensation for part of housing rental or lease payment to small property and low-income families and individuals whose information about the place of residence in the Republic of Lithuania (in the case of persons without the place of residence – the information about the municipality in which they are resident) are entered in the Residents' Register of the Republic of Lithuania. Aliens temporarily living in Lithuania for the purposes of work are not prohibited to acquire housing from private persons or apply to commercial banks for a housing loan.

Association of Lithuanian Banks informed that foreigners can get loans for the acquisition of housing in Lithuania and the requirements/conditions are the same as for the Lithuanian nationals with the only difference that foreigners have to provide the document proving that they are residing in Lithuania legally and that the validity of such document should be longer than the term of loan.

Opinion of the Committee

The Committee recalled that Article 19§4 concerned the situation of migrant workers after their admission in conformity with the state's law.

In particular, this provision guarantees the right of migrant workers to a treatment not less favourable than that of the nationals in the areas of: (i) remuneration and other employment and working conditions, (ii) trade union membership and the enjoyment of benefits of collective bargaining, and (iii) accommodation.

States Parties are required to prove the absence of discrimination, direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination.

Firstly, States Parties are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion, as well as vocational training.

Secondly, States Parties are required to eliminate all legal and de facto discrimination concerning trade union membership and the enjoyment of the benefits of collective bargaining, including the right to be founding member and access to administrative and managerial posts in trade unions.

In the context of collective bargaining, States Parties have to take action to ensure that migrant workers enjoy equal treatment when it comes to benefiting from collective agreements aimed at implementing the principle of equal pay for equal work for all workers in the workplace, or from legitimate collective action in support of such an agreement, in accordance with domestic laws or practice.

For the period of stay and work in the territory of the host State, posted workers are workers coming from another State and lawfully within the territory of the host State. In this sense, they fall within the scope of application of Article 19 of the Charter and they have the right, for the period of their stay and work in the host State to receive treatment not less favourable than that of the national workers of the host State in respect of remuneration, other employ-

ment and working conditions, and enjoyment of the benefits of collective bargaining (Article 19§4, a and b).

States are responsible for the regulation in national law of the conditions and rights of workers in cross-border postings.

The situations of posted workers are often distinct from that of other migrant workers; however it is also clear that in some circumstances they share many of the same characteristics. States must respect the principles of non-discrimination laid down by the Charter in respect of all persons subject to their jurisdiction. Accordingly, in order to conform with the requirements of the Charter, any restrictions on the right to equal treatment for posted workers, which are imposed due to the nature of their sojourn, must be objectively justified by reference to the specific situations and status of posted workers, having regard to the principles of Article G of the Revised Charter (Article 31 of the 1961 Charter).

As regards accommodation, the undertaking of States Parties is to eliminate all legal and *de facto* discrimination concerning access to public and private housing.

There must be no legal or *de facto* restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances.

The right to equal treatment provided in Article 19§4(c) can only be effective if there is a right of appeal before an independent body against the relevant administrative decisions.

In the light of these requirements and of its previous assessment in 2013, the Committee considered that, with the entry into force in 2015 of new provisions regulating foreigners' access to housing, there appeared not to be any further obstacle to Lithuania's acceptance of this provision. It accordingly recommended acceptance of Article 19§4.

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

Situation in Lithuania

The Government reported that Subparagraph 3 of Paragraph 1 of Article 40 of the Law stipulates that a TRP may be issued or renewed to an alien in case of family reunification.

In accordance with Paragraph 26 of Article 2 of the Law, family members mean the spouse or the person with whom a registered partnership has been contracted, minor children/adopted children (hereinafter 'children'), including the minor children of the spouse or the person with whom a registered partnership has been contracted, on condition that they are not married and are dependent, as well as direct relatives in the ascending line who have been dependent for at least one year and are unable to use the support of other family members residing in a foreign country.

Pursuant to Article 43, a TRP may be issued to an alien in the event of family reunification if the alien's spouse or the person with whom a registered partnership has been contracted is in possession of a residence permit and resides in the Republic of Lithuania (both of the alien spouses or aliens who have contracted a registered partnership may not be younger than 21 years), also if the parents of the minor alien or one of them or the spouse of one of them in whose guardianship the minor alien is, is in possession of a residence permit and resides in the Republic of Lithuania. Such an alien (family member) may be issued or replaced a TRP if he meets the conditions laid down in subparagraphs 2 to 4 in Paragraph 1 of Article 26 of this Law or the person whom he is joining for family reunification ensures that his family member meets the said conditions in accordance with the procedure laid down by

laws. These paragraphs of the Law stipulate that a residence permit may be issued or renewed to an alien if the alien (family member):

1. has a valid document evidencing health insurance coverage when, in the cases established by the laws of the Republic of Lithuania, he is not covered by compulsory health insurance, or, in the cases and in accordance with the procedure established by the Government of the Republic of Lithuania, he has a confirmed commitment of a citizen of the Republic of Lithuania or an alien residing in the Republic of Lithuania to cover the costs of the health care services provided to him during the period of his residence in the Republic of Lithuania;
2. has adequate means of subsistence and/or receives regular income which is sufficient for his stay in the Republic of Lithuania;
3. possesses by the right of ownership the suitable residential premises in the Republic of Lithuania in which he intends to declare his place of residence, provided that the residential area per each adult person who has declared the place of residence at it would not be less than seven square metres, or uses the said residential premises under a lease or loan for use contract, provided that the duration of the relevant contract is not shorter than the period of validity of the TRP and has been registered in accordance with the established procedure, or presents a letter of commitment of a natural or legal person, verified in accordance with the procedure laid down in legal acts, to provide him with suitable residential premises at which he will declare his place of residence and which will meet the requirements for residential area per person for the period of validity of the TRP. The requirement of the residential area of the suitable residential premises shall not apply to an alien to whom a TRP has been issued or renewed on the grounds laid down in Article 40(1)(4), where the employer has recruited him under an employment contract to do the work related to regular travelling on international routes or where the employer posts him to perform work in any other EU Member State or a Member State of the European Free Trade Association under a contract for provision of services or performance of works in that Member State, during the period of work of the said alien in that State.

The following aliens shall not have the right to family reunification:

- 1) the aliens who have submitted applications for asylum in the Republic of Lithuania - until a final decision to grant asylum is taken;
- 2) aliens who have been granted temporary protection in the Republic of Lithuania;
- 3) aliens who have been granted asylum in the Republic of Lithuania, if their family members would not be granted asylum in the Republic of Lithuania pursuant to Article 88(2)(3) to (5) or Article 88(3) of the Law.

Paragraph 6 of Article 43 lays down that the alien whose family members enter for family reunification must have resided in the Republic of Lithuania for the last two years, hold a temporary residence permit valid for at least one year and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania. This provision shall not apply when the family members join the alien:

- 1) who has been granted asylum in the Republic of Lithuania;
- 2) who holds a TRP issued on the grounds established in Article 40(1)(41) (the alien intends to take up highly qualified employment in the Republic of Lithuania) or (13) of the Law;
- 3) who holds a TRP issued on the grounds established in 40(1)(14) of the Law. The alien may exercise this right if the family has already been concluded in the EU Member State in which the alien has acquired the long-term resident status;
- 4) who has arrived to participate in a traineeship at higher education and research institutions of the Republic of Lithuania under international treaties of the Republic of Lithuania or under the European Union academic exchange programmes with third countries;
- 5) who, being directly involved in projects of importance to the State, has invested in the Republic of Lithuania any property owned, borrowed or managed and used by the right of trust.

6) who holds a TRP issued on the grounds set out in Article 45(1)(1) and meets the requirements laid down in Article 45(3) of the Law;

7) who has entered the Republic of Lithuania for a period not exceeding three years to take up employment at a representative office or branch of a foreign enterprise or at an enterprise which belongs to the same group of enterprises established in the Republic of Lithuania, where the alien is employed as the manager or as a professional, provided that before his entry into the Republic of Lithuania the alien was employed at that foreign enterprise not less than for the last one year, his expertise or high professional qualification is necessary for activities of the enterprise, representative office or branch established in the Republic of Lithuania and during his employment in the Republic of Lithuania he is paid a wage not less than two amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania.

In the case of family reunification, an alien shall be issued a TRP for the same period as for the alien whom he is joining, and if an alien's TRP is withdrawn, TRP of the alien's family members living together with him shall also be withdrawn, except in cases where they are entitled to reside in the Republic of Lithuania on other grounds set by the Law (Paragraphs 1 and 3 of Article 50 of the Law).

Subparagraph 2 of Paragraph 1 of Article 36 of the Draft provides for the ground to issue a TRP to a minor alien, whose parents or one of them holds a residence permit in the Republic of Lithuania.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, pointing out that, under Article 19§6, migrant workers, permitted to establish themselves in the territory, have the right be (re)joined by their family, that is at least the worker's spouse (husband or wife) and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker, meaning that they have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies, and are unmarried. States may decide to extend the notion of the family of the migrant worker beyond those mentioned above, e.g. to disabled children.

Refusal of the right to family reunion on health grounds

A State may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. Refusal may only be admitted for specific illnesses which are so serious as to endanger public health. These are the diseases requiring quarantine stipulated in the World Health Organisation's International Health Regulations and concern cholera, plague and yellow fever. These are also other serious contagious or infectious diseases such as tuberculosis or syphilis. Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish on a case-by-case basis that the illness or condition constitutes a threat to public order or security.

Conditions

States may require that certain conditions be fulfilled before allowing the family to be reunited with the migrant worker, such as a certain length of residence of migrant workers, the obtaining of sufficient or suitable accommodation, and/or sufficient means of subsistence. It must be stressed that these conditions must not be so restrictive as to prevent any family reunion.

Length of residence: States may require that migrant workers reside in the country before their family can join them. Such a length of residence requirement is reasonable if it is up to one year.

Housing condition: States may require that migrant workers have sufficient or suitable accommodation to house the family or certain family members, but such a condition should not be applied in a blanket manner and should not be so restrictive as to prevent any family reunion.

Means requirement: States may require that migrant workers have a level of means required to bring in the family or certain family members, but it should not be so restrictive as to prevent any family reunion. Social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion.

Language/integration tests: requirements that family members pass language and/or integration tests or complete compulsory courses, whether imposed prior to or after entry to the State, may impede rather than facilitate family reunion and therefore are contrary to Article 19§6 of the Charter where they:

- a) have the potential effect of denying entry or the right to remain to family members of a migrant worker, or
- b) otherwise deprive the right guaranteed under Article 19§6 of its substance, for example by imposing prohibitive fees, or by failing to consider specific individual circumstances such as age, level of education or family or work commitments.

Migrant workers family members' independent right to stay

Migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her own expulsion, since they have an independent right to stay in the territory. Moreover, for as long as a migrant workers' family members hold a right of residence it must not be possible to remove them, even if the migrant worker has personally lost this right, except where they endanger national security or offend against public interest or morality.

Effective remedy

Restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in Lithuania. In particular, information would be needed on how the housing and means requirements are interpreted and applied in practice. Confirmation would also be needed that no excessive conditions apply in relation to the length of residence of the migrant worker, or in relation to health or language criteria. The Committee also underlined the importance of ensuring that migrant workers' family members may enjoy an independent right to stay, that is a right not to be automatically expelled if the migrant worker's residence title is revoked. Information in this respect would be needed, as well as on the remedies existing to contest restrictions to the right of family reunion. The Committee invited Lithuania to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§8 *Right of migrant workers and their families to protection and assistance: guarantees applying to deportation*

Situation in Lithuania

The Government reported that Article 125 of the Law provides for the following grounds, under the presence whereof an alien shall be obligated to depart from the Republic of Lithuania:

- 1) if the alien's visa has been annulled;
- 2) if the alien's TRP or permanent residence permit has been withdrawn;

- 3) if the alien stays in the Republic of Lithuania after the expiry of his visa;
- 4) if the alien stays in the Republic of Lithuania after the expiry of the TRP;
- 5) if the alien entered the Republic of Lithuania lawfully, but stays in the Republic of Lithuania without possessing a temporary or permanent residence permit, where he is obliged to possess one;
- 6) if the alien has been staying in the Republic of Lithuania for a period exceeding the period of stay established for aliens in Article 11(2) to (5) and Article 11(7) of the Law;
- 7) if the alien has unlawfully entered the Republic of Lithuania or is illegally staying in it, however he is a vulnerable person, an asylum applicant or an alien who has been refused asylum and who agrees to voluntarily return to a foreign state assisted by an international or non-governmental organisation.

Pursuant to Article 126, an alien shall be expelled from the Republic of Lithuania if:

- 1) the alien has failed to comply with the obligation to leave the Republic of Lithuania within the specified time limit, failed to voluntarily leave the Republic of Lithuania within the time limit stipulated in a decision to return him to a foreign state or within a time limit extended on the ground indicated in Article 127(32) of the Law or where he has not been granted a period for voluntary departure as there is a ground for believing that the alien may abscond;
- 2) the alien has entered or stays in the Republic of Lithuania unlawfully;
- 3) the alien's stay in the Republic of Lithuania constitutes a threat to national security or public policy;
- 4) a decision has been made to expel the alien from another state to which the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies.

When making a decision to expel an alien from the Republic of Lithuania, the following shall be taken into account: the period of his stay in the Republic of Lithuania; his family relationship with persons residing in the Republic of Lithuania; his existing social, economic and other connections with the Republic of Lithuania, also whether he has minor children studying under a formal education programme/programmes in the Republic of Lithuania; the nature and extent of dangerousness of the committed violation of law (Paragraph 1 of Article 128 of the Law).

A decision to expel an alien shall be taken by the Migration Department (Paragraph 5 of the Article 127 of the Law). The decision may be appealed against with Vilnius Regional Administrative Court or the Supreme Administrative Court of Lithuania.

Article 139 of the Law establishes that the implementation of the decision appealed against shall be suspended when:

- 1) the alien's residence permit is withdrawn;
- 2) the alien who has lodged an asylum application is not granted temporary territorial asylum in the Republic of Lithuania and is obliged to depart from the Republic of Lithuania or is expelled from it to a safe third country or the country of origin;
- 3) the alien is refused asylum and is obliged to depart from the Republic of Lithuania, is expelled from it or returned to a foreign country, the examination of the asylum application is terminated or the granted asylum is withdrawn;
- 4) the alien is expelled from the Republic of Lithuania (if an administrative court makes an order to apply provisional measures except in cases where the grounds for expulsion are related to a threat to national security or public policy).

In accordance with the provisions of the Law, the legal status of a family member in the Republic of Lithuania shall depend on the legal status of an alien, except cases where such a family member is entitled to reside in the Republic of Lithuania on other grounds established by the Law. Thus, if an alien is withdrawn a TRP and he is expelled from the Republic of

Lithuania due to the threat to national security or public policy, the issue of the legal status of his family member in the Republic of Lithuania shall be considered.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, recalling that, under Article 19§8, States are prohibited by law to expel migrant workers lawfully residing within their territories unless they endanger national security or offend against public interest or morality.

Expulsion in such cases can only be in conformity with the Charter if it constitutes a penalty for a criminal act, imposed by a court, a judicial authority or an administrative body whose decisions are subject to judicial review. Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality. Expulsion orders must be proportionate, taking into account all aspects of the non-nationals' behaviour as well as the circumstances and the length of time of his/her presence in the territory of the State. The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that he/she may have formed during this period, must also be considered to determine whether expulsion is proportionate.

Risks to public health are not in themselves risks to public order and cannot be the basis for expulsion, unless the person refuses to undergo suitable treatment. The fact that a migrant worker is dependent on social assistance is also not against public order and cannot constitute a ground for expulsion.

Migrants have the right to appeal to a court or other independent body against the expulsion decision, even in cases where national security, public order or morality are at stake.

In case expulsion is not carried out, the migrant worker should not be placed in a situation of non-law as regards residence. Foreign nationals who have been resident for a sufficient length of time in a state, either legally or with the tacit acceptance of their illegal status by the authorities in view of the host country's needs, should be covered by the rules protecting from deportation. Collective expulsions are not in conformity with the Charter; decisions on expulsion may be made only on the basis of a reasonable and objective examination of the particular situation of each individual.

In the light of these requirements, the Committee considered that Lithuania may be in a position to accept this provision. It accordingly recommended acceptance of Article 19§8.

Article 19§12 *Right of migrant workers and their families to protection and assistance: teaching of migrants' mother tongue*

Situation in Lithuania

The Government referred to the situation presented during the previous assessment on non-accepted provisions in 2013. It recalled in particular that Lithuanian law guarantees the right to education for every citizen, including aliens with permanent or temporary residence status, to education (Article 24 "The Right and Duty of Lithuanian Residents to Study" of the Law No. XI-

1281 Amending the Law on Education adopted on 17 March 2011) as well as minor aliens who have been granted temporary protection in the Republic of Lithuania, and unaccompanied minor aliens, without regard to lawfulness of their stay within the territory of the Republic of Lithuania (Order No. ISAK-789 "On the Implementation of the Education of Children of Foreign Nationals, Who Came to Work or Live in the Republic of Lithuania, in Comprehen-

sive Schools” of the Minister of Education and Science, Official Gazette 2003, No. 57-2554, 24.08.2004, No. 131-4742).

In particular, upon the request of parents, guardians or learners, the conditions for studying their mother tongue shall be created with regard to the possibilities. If the migrants’ mother tongue is Russian or Polish, children can attend schools where instruction in these languages is provided.

The Government indicated in this respect that most migrants came from Russian Federation, Belarus and Ukraine and that there were 51 schools where instruction is provided in Polish, 34 schools where instruction is provided in Russian, and 32 schools where there are classes of different languages of instruction. Details on the funding of such schools, curriculum content and textbooks, examinations and training of teachers were provided (see [Report on the non-accepted provisions of the European Social Charter](#), 2013).

Specific provisions furthermore apply to national minorities. Under Article 30, paragraph 2, of the Law on Education, as amended in 2011, comprehensive and non-formal education schools shall create the conditions for pupils belonging to national minorities to foster their national, ethnic and linguistic identity, study their mother tongue, history and culture. At those comprehensive and non-formal education schools, the by-laws of which (respecting the requests of parents (guardians, foster carers) and learners) provide for instruction in the language of the national minority and teaching the language of the national minority, and the teaching process is conducted or certain subjects are taught in the language of the national minority. In such schools, primary, basic and secondary education curricula are implemented in the bilingual education mode: in the language of the national minority and the Lithuanian language. In the primary education curriculum, the Lithuanian language is taught in the integrated mode, whereas in the basic and secondary education curricula, it is taught during classes covering the topics of Lithuanian history and geography, world cognition and fundamentals of citizenship.

The Government confirmed that the existing possibilities for teaching in other languages than Lithuanian covered the needs of the majority of migrants wishing their children to learn their original language. As regards languages concerning a more limited number of migrants, these were not covered by the public education, but other solution, at an informal level were however possible.

Opinion of the Committee

The Committee recalled that, while Article 19§11 concerned the teaching of the national language to migrants and their families, under Article 19§12 States Parties undertake to promote and facilitate the teaching, in schools or other structures, such as voluntary associations or non-governmental organisations, of those languages that are most represented among migrants within their territory.

It pointed out that the obligation under 19§12 did not concern all possible migrant languages, but covered situations where the number of children concerned was sufficient to warrant lessons in their mother tongue to be organised.

In the light of these requirements, the Committee considered that there were no obstacles to acceptance by Lithuania of this provision. It accordingly recommended acceptance of Article 19§12.

Article 23 *Right of elderly persons to social protection*

Situation in Lithuania

The Government reported that, in the framework of the Action Plan of the National Demographic (Population) Policy Strategy in the Area of Family Welfare for the 2015 (Order No. A1-209 of the Minister of Social Security and Labour of the Republic of Lithuania of 14 April 2014), state budget support in the amount of € 68 349 was provided for six NGO's representing elderly persons and working on the national level.

Another Action Plan for the Motivation and Promotion of Voluntary Activities of Elderly Persons for 2016-2020 was approved in October 2015. Its objective is to increase participation of the elderly persons (from 55 to retirement age) in the labour market and voluntary activities, by creating for them favourable conditions for solving social and civil issues. The Action Plan is aimed at decreasing social exclusion of the elderly people, creating conditions for the longer participation in the labour market and reducing negative, age-related stereotypes and discriminative approach towards elderly people. The Action Plan is implemented by the NGO's on the project basis. The Action Plan is financed by the means of the European Social Fund. Funding of the Action Plan amounts to €6 000 000.

Pensions

State social insurance old-age pension (paid from the budget of the State Social Insurance Fund) or social assistance pension (paid from State Budget Fund) may be awarded and paid for persons that attained old-age retirement age. State social insurance old-age pensions are awarded for persons that acquired 15 years of the minimum record of state social pension insurance (Law on State Social Insurance Pensions, Official Gazette, No.59-1153, 2005, No.71-2555). The amount of state social insurance old-age pension depends on the person's record of state social pension insurance and on the person's insured income.

According to the Statistics Lithuania, in the beginning of 2015 the retirement age population in Lithuania was 652 700 (22.3 % of the total population) and 91.5 % of them (597 000) received old-age pension. About 70 000 disability pensioners are of retirement age as they have a right to keep this pension in retirement age if it is higher than the calculated old age pension.

In 2010, due to the economic crisis, actions aimed at reducing pensions' expenditure were implemented: in 2010-2011 the social insurance pensions above €188 were reduced. The old-age pensions of working pensioners were reduced additionally (reduction depended on the size of wage).

In the beginning of 2012 the Constitutional Court decided that in an extremely difficult economic situation it is reasonable to reduce pension amounts but pensions should be reduced proportionally. The Constitutional Court stated that a higher scale of reduction for working pensioners was illegal. Therefore the difference between the full and the reduced pensions of 2010 and 2011 will be repaid to pensioners in several years. Repayments started at the end of 2014 and will end in 2018.

Table 23.1 Expenses for state social insurance old-age pensions and survivors' pensions

	2011*	2012	2013	2014	2015
Old-age pensions, million EUR	1571.6	1703.2	1727.5	1738	1763.6
Widows' pensions, million EUR	59.4	61	60.3	59.6	60.4
Total amount of expenses for old-age and widows' pensions, million EUR	1631	1764.2	1787.8	1797.6	1824

* Considering the difficult economic situation in the country, the Temporary Law on Recalculation of Social Benefits was adopted with effect as of 1 January 2010. The Law stipulates that until there is the exceptional situation (economic crisis) in the country, social benefits (including state social insurance old-age and survivors' pensions) are cut by the amount necessary to ensure vital public interests and protect other fundamental values. This is the reason of a decrease in expenses on the state social insurance old-age and survivors' pensions in 2010-2011.

According to the data of the budget implementation report of the State Social Insurance Fund of the Republic of Lithuania.

In 2012, the amounts of pensions were restored to the pre-crisis level. Despite the freeze of pension indexation during the period 2011-2014 the amount of average old age pension has increased. The change in pension calculation formula had the positive impact on the average old-age pension amount since 2013. The calculation formula of earnings-related part of pension (supplementary pension part) was modified at the end of 2012. The simplified rule of the supplementary pension part calculation was introduced in order to avoid the difficulties related to the collection of personal wage data in the years 1984-1993 (Social Insurance Agency's database only dates back to 1994). As a general rule, supplementary part of pension now can be calculated using data of the monthly average wage only from 1 January 1994 and data of all working years (record of state social pension insurance), including pre-1994 periods. A person can choose which method of calculation is more convenient for him – under the old rule or new one.

The increase of old-age pension depends upon the government decision to increase the main indicators used in the old-age pension calculation formula – the basic state social insurance pension and the insured income of the current year. In the period from 1 January 2011 to 31 December 2015, the amount of the basic state social insurance pension was revised twice. On 1 January 2015, the basic social insurance pension was slightly increased, due to recalculation of values from Litas to Euro when the value was increased to integer for convenient use. Since 1 July 2015, the basic state social insurance pension was increased from €105 to €108. The insured income of current year, which is applied in calculation of earnings related supplementary part of the pension, is also revised on an annual basis. Within the period from 2011 to 2015, the amount of the insured income of the current year increased several times. Since 1 January 2015, the amount of the insured income of the current year was set to €431 and later (since 1 July 2015) it was increased to €434.

*Table 23.2 Breakdown of state social insurance pensions' expenses according to the type of pension in 2015**

Expenses on social insurance pensions (million EUR)		2383.6
1.	Old-age pensions	1763.6
2.	Work incapacity (invalidity) pensions	469.6
3.	Survivors', orphans' and loss of breadwinners' pensions	107.3
	3.1. Loss of breadwinners' pensions	4.7
	3.2. Widows' and orphans' pensions	102.2
	- widows'	60.4
	- orphans'	42.3
4.	Length of service pensions	1
5.	Compensations for extraordinary work conditions	10.3
6.	Funeral benefit in case of death of a pensioner	10.7
7.	Early old-age pension	20.9

*provisional data of State Social Insurance Fund Board

Financial crises and huge financial deficit of social insurance scheme was one of the obstacles for pension's adjustment in line with growth of wages. As average wage increased, the net average pension ratio to net average wage decreased from 49% in 2012 to 44% in 2015.

The adequacy of the assistance related to old age can be assessed using information from ESSPROS and EU-SILC which makes it possible to see the Lithuania's situation in the EU context. Lithuania's expenditure on pensions accounted for 7.6% of GDP in 2012 (EU-28 – 12.5%). Only one member state of EU has smaller proportion of expenditure on pensions – Ireland (6.9 % of GDP). In 2014 the average old-age pension (€240.3) was almost identical to the poverty threshold - €241. The average old age pension accounted for 44.2 %, with the obligatory State Social Pension Insurance Record – 46%, in the absence of obligatory State Social Pension Insurance Record - 25.8 % of the average monthly earnings (NET) in 2015.

Table 23.3 Indicators of social and economic development, 2011-2015

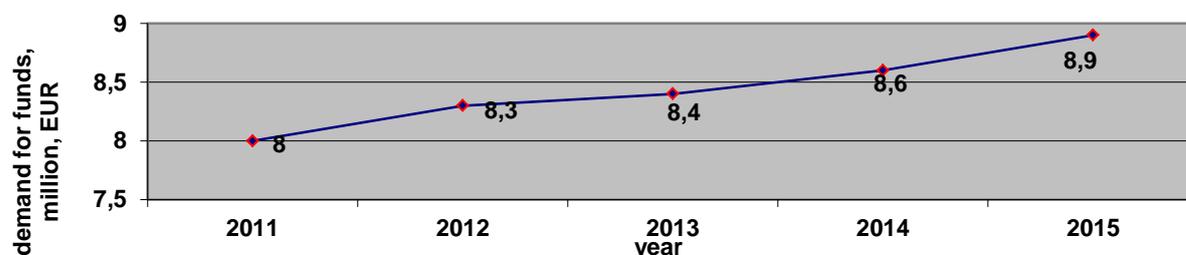
	2011	2012	2013	2014	2015
Average old-age pension, EUR	216.75	236.21	238.13	240.32	244.46
Average monthly earnings (net), EUR	461.8	478.3	501.1	527.2	552.5
Average old-age pension to net earnings ratio, %	47	49	48	46	44
Consumer price index, compared to the previous period, %	104.1	103.1	101.0	100.1	99.1
Average net monthly wage, compared to the previous period, %	102.7	103.6	104.8	105.2	104.8
Average old-age pension, compared to the previous period, %	100.3	109.0	100.8	100.9	101.7

According to the data from the Statistics Lithuania

Government and Parliament agree that there is a need to set clear rules on pension's indexation. The Government prepared the proposals on pension indexation rules along with other state social insurance pension system changes. The Parliament will make the final decision on proposals in 2016 session.

Persons, who are not entitled to any type of pension and who have reached the age of old-age pension, are awarded and paid social assistance pensions (Law on Social Assistance Pensions), thus providing these persons with certain pension guarantees upon the moment they reach the age of old-age pension. The social assistance pension is designed as a minimum income pension for those not protected by social insurance pension schemes. These persons are awarded with the social assistance pension of 0.9 of the basic pension. Social assistance pensions are not means-tested. The Law on Social Assistance Pensions also stipulates that the persons awarded with pension (state social insurance, state, foreign state pension or other pension-related benefits) the amount of which (or the total amount of the pensions received) is lower than the amount of the assistance pension, are paid the amount equal to the difference between the social assistance pensions and the awarded pensions and (or) pension benefits (the total amount of pensions).

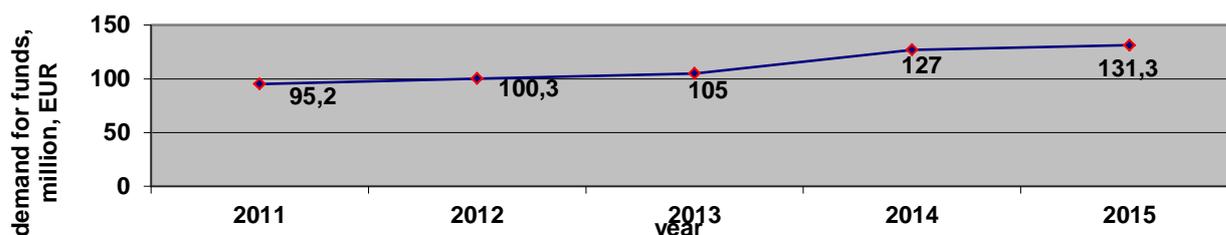
Figure 23.4 State budgetary funds used for social assistance benefits in 2011-2015



Data from the Ministry of Social Security and Labour

State pensions are public unfunded supplementary to social insurance pension scheme. They are granted mainly to two rather large groups of population. The first group includes post-war anti-Soviet resistance fighters and people who have suffered from the former Soviet regime. The second group is military and police officers, judges, scientists, artists, and some other smaller professional groups. As they are covered by the Social insurance pension scheme, State pensions provide supplementary income protection.

Figure 23.5 State budgetary funds used for state pensions in 2011-2015



Data from the Ministry of Social Security and Labour

Therefore, pursuant to the legal acts of the Republic of Lithuania governing pension allocation and payment to all persons, ensures the right of persons having reached the age of old-age pensions to pensions. In some cases, a person can receive up to four pensions: state social insurance old-age pension (from the State Social Insurance Fund), state pension and state survivors' pensions (from the state budgetary funds).

Health Care

The main legal act, governing the provision of palliative care services, is the Order No. V-14 of 11 January 2007 of the Minister of Health of the Republic of Lithuania approving the Description of Requirements for Provision of Palliative Care Services to Adults and Children (with the last changes laid out in Order No. V-946 of 13 August 2015 of the Minister of Health). The purchase of these services from the Compulsory Health Insurance Fund budget was enacted by Order No. V-470 of 16 May 2008 of the Minister of Health of the Republic of Lithuania approving the Pricelist of Palliative Care Services for Adults and Children (with the last changes laid out in Order No. V-1108 of 28 October 2014 of the Minister of Health).

The Description of Requirements for the Provision of Care Services in Outpatient Health Care Institutions and Homes was approved by Order No. V-1026 of 14 December 2007 of the Minister of Health of the Republic of Lithuania (with the last changes laid out in Order No. V-1551 of 30 December 2015 of the Minister of Health). The expenses for these services provided to persons for whom the need of permanent nursing has been established are covered from the budget of Compulsory Health Insurance Fund. All the above is aimed at improving the life quality of patients in the surroundings familiar to them and encouraging their self-care.

While improving the provision of specialised stationary services to elderly persons, Special requirements for the Provision of Services Related to Geriatrics and the Basic Price of these Services from the Compulsory Health Insurance Funds were approved by Order No. V-117 of 10 February 2011 of the Minister of Health of the Republic of Lithuania (with the last changes laid out in Order No. V-129 of 28 January 2014 of the Minister of Health).

Cash social assistance

In order to decrease social exclusion and pursuant to the Republic of Lithuania Law on Cash Social Assistance for Poor Residents (Official Gazette, *Valstybės žinios*, 2003, No. 73-3352,

2011, No.155-7353) elderly people as well as poor families and single residents, whose working, social insurance and other revenues are insufficient due to objective reasons, are entitled to social benefits, compensations for heating of a dwelling, hot and drinking water expenses which facilitate the burden of dwelling maintenance.

In order to intensify the process of renovation (modernisation) of multi-dwelling buildings and ensure the participation of poor residents and their interest in saving as well as in possibilities for decreasing heat consumption, a family or a single resident has the right to the reimbursement for a credit, taken out for the renovation (modernisation) of a multi-dwelling building, and interest during the heating and non-heating seasons, provided that the owners of a multi-dwelling building participate in the project of the renovation (modernisation) of a multi-dwelling building and the family of the owner of a multi-dwelling building or the owner of a multi-dwelling building (a single resident) are entitled to the compensation for heating expenses.

In 2015, 3 000 persons had the right to the reimbursement for a credit, taken out for the renovation (modernisation) of a multi-dwelling building, and interest during the heating and non-heating seasons (in 2014 – 1 300 persons, in 2011 – 1 200 persons,). In 2015, as compared with 2014, expenses increased by 42.8 % (from €0.7 million to €1.0 million).

Social services

Expenditure on social security decreased in 2010 due to the economic crisis, and over the last 4 years remains virtually the same. However, expenditure on allowances and services for persons of retirement age is slightly increasing and in 2014 amounted 45% of expenditure on social security. In 2014, these expenses reached €2 2793 million, and, if compared to 2009, they increased by €543 million (5%).

In order to keep elderly people living in their homes for as long as possible and avoid the necessity of stationary services, the municipality provides social services at home. In 2014, a total of 13 989 persons were provided with such services at home (in 2009 were 10 840 persons). In 2013, the Integrated Assistance program was launched. It was financed by the European Social Fund (ESF). This program aimed at creating and developing high quality integrated assistance (nursing and social care) at home for disabled and elderly persons, consultancy aid for family members who take care of disabled and elderly persons. From the middle of 2013 pilot projects were started in 21 municipalities. Funding for program was about €5,8 million. During pilot projects, municipalities had an opportunity to provide integrated assistance – nursing and social care for the disabled or elderly people at home. It was established 70 mobile teams, purchased all necessary tools, transport, acquired all the necessary licenses and other requirements. The clients and their families' members assess integrated assistance as extremely positive. Integrated assistance will be funded also during 2014 – 2020 m. European structural funding period (for all period about €17 million). All municipalities will have opportunity to provide integrated assistance. A new action plan is prepared to implement integrated assistance projects and preparatory work is already carried out in the municipalities.

Elderly people entitled to social care in compliance with the established procedure (“The Description of the Procedure for Establishing of an Individual’s (Family’s) Need for Social Care and Granting Thereof, and the Methodologies for establishing the Need of Social care for an Elder Person and an Adult with Disability” approved by Order No. A-94 of 5 April 2006 of the Minister of Social Security and Labour of the Republic of Lithuania), are sent to social care institutions. The need for social care is established according to the criteria of a person’s social or physical independence. Care institutions and homes for independent living.

Table 23.6 as of year-end

	2009	2010	2011	2012	2013	2014
<i>Care institutions for elderly people</i>	103	105	101	104	102	108
Number of residents	5 005	4476	4414	4528	4665	4 829
State (County) care homes	8	3	2	2	2	2
Number of residents	1 670	213	112	113	114	104
Other care institutions ¹	5	3	2	2	2	2
Number of residents	264	482	315	357	384	417
Municipal care homes	54	57	56	55	50	51
Number of residents	2 146	2 702	2 846	2 843	2 543	2 429
Care homes of public organisations and parishes	36	42	41	45	48	53
Number of residents	925	1 079	1 141	1 215	1 624	1 879
Homes for independent living ²	13	12	10	14	21	20
Number of residents	230 ³	227	212	262	449	402

¹ Care home for elderly people "Senevita" and Centre of Gerontology and Rehabilitation.

² Institutions of continuing care retirement communities for the elderly and people with disabilities.

³ Annual numbers of residents.

Data of the Statistics Lithuania

According to the data from Statistics Lithuania, at the end of 2014, 108 social care homes for the elderly people operated and housed 4 829 persons (at the end of 2009 2013 social care homes resided in 5 005 persons). In 2009 the majority of these homes (54) were established by municipalities, 36 – by non-governmental organisations and parishes, and the rest were established by county governors, private-owned, etc. But in 2014 the proportion changed and the majority (53) were established by non-governmental organisations and parishes, 51 – by municipalities, and the rest are state (county) or other social care institutions. More independent elderly people prefer living in homes for independent living. In 2014, a total of 20 homes (402 persons) for independent living for elderly people with disabilities operated in Lithuania.

Pursuant to amendments to the Law on Social Services, on 1 July 2010, 21 municipalities took over the rights and obligations of the owners of county budgetary social care institutions. The state property owned by the ownership right and managed by these institutions by the trust right has also been transferred into the ownership of municipalities. The rights and obligations of 25 child care homes and 3 care homes for elderly people were transferred to municipalities.

The institution of the county governor's administration was eliminated on 1 July 2010, and part of its functions related to the organisation of social services was delegated to the Ministry of Social Security and Labour. Municipalities became responsible for the other part of services. The above reorganisations were aimed at decreasing administration expenses as well as at placing responsibility for the organisation of social services on municipalities thus ensuring the principle of social services organisation and availability for persons (families) as close to their place of residence as possible.

Also, the number of municipal care homes for elderly people during the past few years is almost the same. In 1991, 3 municipal care institutions were operating in Lithuania, whereas, in 2004 this number increased a total of 55 care homes for elderly people, and in 2014 a total of 51. At present, institutional care services for elderly people are provided in 57 of 60 municipalities, and there are 15,4 places per 10 000 Lithuanian residents, whereas, in 1990, this number reached only 6 places per 10 000 residents. However, the average of places per 10 000 Lithuanian residents in municipalities differs by approximately 16 times (from 4.5 to 73.6).

Since 2007, the following target grants have been allocated to municipalities for the organisation of social care for persons with severe disabilities: €3,9 million in 2007, €7million in

2008, €8,9 million in 2009, €10,5 million in 2010, €12,1 million in 2011, €12,2 million in 2012, €13 million in 2013, €12,7 million in 2014.

There are quite a big number of municipalities where care problems of the elderly are solved through creation of social services institutions – alternatives for stationary care – day centres, community centres, or social services centres are established on the basis of stationary care institutions, and they provide non-stationary services. In 2009, a total of 90 community centres, about 60 social care or social day care centres for elderly people operated in Lithuania. In 2014 the numbers increased to a total of 230 centres of community, social care or social day care. Day centres create a possibility of improving the quality of such people's lives, because there elderly people have a chance to communicate, solve the arising problems together, thus helping themselves and others.

In 2009, 2 921 persons were employed by social care institutions for elderly people, out of which 980 social workers, 701 assistants to social workers and 60 volunteers. At present, 3 209 persons were employed, out of which 1 048 social workers, 733 assistants and 121 volunteers.

The quality of services provided by social care institutions is supervised by the Department of Supervision of Social Services under the Ministry of Social Security and Labour. Social care should be provided by the social care institutions, whose social care complied with social care norm (standards) approved by an order of the Minister of Social Security and Labour. Social Care Norms seeks to ensure the life quality of social care recipients, both when receiving social care at institution and at home, and regulate qualitative requirements not only for buildings, premises, catering, etc., but also for the protection of rights of those persons. Social care was established as a licensed activity in 2015. Social care norms are one of the major conditions of the licensed activity.

State support for the acquisition of housing

The Law on State Support for the Acquisition or Rental of Housing stipulates that the support for the acquisition or rental of housing is granted irrespective of the beneficiary's age. Pursuant to the above law, persons having reached the age of old-age pension and having been rated as having special needs are entitled to a subsidising part of the housing loan.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, underlining the fact that Article 23 does not define the notion of "elderly person" with reference to a specific age, it concerns instead retired people (in this respect, the information provided on the Action Plan for the Motivation and Promotion of Voluntary Activities of Elderly People does not appear to be relevant, insofar as it concerns people who are not retired, and are therefore out of the scope of Article 23) and requires States Parties to make focused and planned provision in accordance with the specific needs of elderly persons.

It also stressed that, in the assessment of the adequate level of resources, all available resources, not only pensions, are taken into account. Comprehensive information in this respect would therefore be needed.

The Committee recalled that an adequate legal framework must exist to combat age discrimination not only in employment (as required under Articles 1§2 and 24), but also in a range of areas beyond employment, namely in access to goods, facilities and services, healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities.

An adequate legal framework must also exist in respect of assisted decision making for the elderly, guaranteeing their right to make decisions for themselves unless it is shown that they are unable to make them. This means that elderly persons cannot be assumed to be incapable of making their own decision just because they have a particular medical condition or disability, or lack legal capacity. An elderly person's capacity to make a particular decision should be established in relation to the nature of the decision, its purpose and the state of health of the elderly person at the time of making it. Elderly persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own. In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons, also in case of reduced decision making capacity. It must be ensured that the person acting on behalf of elderly persons interferes to the least possible degree with their wishes and rights.

Article 23 also requires States Parties to take appropriate measures against elder abuse. They must take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate elder abuse and neglect, and adopt legislative or other measures.

Under Article 23, the State should adopt or encourage, either directly or in co-operation with public or private organisations appropriate measures with a view to enabling elderly persons to remain full members of society for as long as possible. Such measures relate respectively to the provisions of adequate resources and of information on services and facilities.

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow elderly persons to lead a 'decent life' and play an active part in public, social and cultural life. The Committee compares pensions with the average wage levels and the overall cost of living. Pensions must be index-linked. The Committee also takes into consideration the cost of transport as well as the cost of medical care and medicine, as well as the existence of a carer's allowance for family members looking after an elderly relative.

However when assessing adequacy of resources of elderly persons under Article 23, all social protection measures guaranteed to elderly persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life are taken into account. In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons are examined. These resources are then compared with the median equivalised income.

As regards services and facilities, the Committee examines not only that information in this respect is available to elderly people, but also the services and facilities themselves. In particular, information is sought on the existence, extent and cost of home help services, community based services, specialised day care provision for persons with dementia and related illnesses and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons, as well as cultural leisure and educational facilities available to elderly persons. Additionally States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services. Insufficient regulation of fees for services may amount to a violation of Article 23.

The needs of elderly persons must be taken into account in national or local housing policies. The supply of adequate of appropriate housing for elderly person must be sufficient. Housing law and policy must take account of the special needs of this group. Policies should help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.

In the context of a right to adequate health care for elderly persons Article 23 requires that health care programmes and services (in particular primary health care services including domiciliary nursing/health care services) specifically aimed at the elderly must exist together with guidelines on healthcare for elderly persons. In addition, there should be mental health programmes for any psychological problems in respect of the elderly, and adequate palliative care services. Nutrition issues for elderly people should also be given appropriate attention, any information in this respect would be useful.

Elderly persons living in institutions should be guaranteed the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the elderly person and the right to complain about treatment and care in institutions. There should be a sufficient supply of institutional facilities for elderly persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions must be licensed or approved and an independent inspection mechanism must exist to examine, in particular, the quality of care delivered. In particular, information would be needed as regards the monitoring of private social care providers.

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints are also examined under this provision.

In view of these requirements, the Committee considered that Lithuania may be in a position to accept this provision, provided that adequate measures exist on assisted decision making and against elder abuse, and that the level of non-contributory benefits, other than pensions, is adequate. It accordingly recommended acceptance of Article 23.

Article 30 *The right to protection against poverty and social exclusion*

Situation in Lithuania

The Government reported that, between 2011 and 2015, Lithuania participated in the social policy of the European Union coordinated by means of the open method of coordination. Similarly to other Member States, every year Lithuania drafted a National Reform Programme. The process of report drafting involved representatives from state institutions as well as a wide range of representatives of social partners.

Lithuania is committed to reduce the number of individuals living at risk of poverty or social exclusion from the 985,000 to 814,000 by 2020, which constitutes 170,000 people. This figure includes the population experiencing severe material deprivation and (or) the population whose equivalent disposable income is below 60% of the median equivalent disposable income and (or) people living in jobless households (households with persons who are unemployed or have very low work intensity). The main preconditions for reducing poverty and social exclusion are successful policies of social exclusion prevention and employment promotion as well as health care policies that enforce fair relationships of social security and health care.

Despite a rapid economic growth (on average real GDP grew at 4.1 % over the period 2011-2014), poverty and social exclusion is a challenge as income inequalities are among the highest in EU.

When evaluating its' poverty level, Lithuania uses the comparative data of EU levels, which are received by conducting a Research of Income and Living Conditions. According to the research data for 2011-2014 (revenue data for 2010-2013 were used), the at-risk-of-poverty rate was decreasing from 20.5 % to 19.1 %. The highest risk of poverty is among the unemployed, single persons without children or single parents bringing up children, the elderly, disabled people. The territorial differentiation of the risk of poverty is high, since the risk of poverty in rural areas is twice higher than the risk of poverty in the largest cities. Children (0-17) and persons aged 65 and above are the age groups experiencing the highest risk of poverty.

Table 30.1 At-risk-of-poverty rate by place of residence and household composition, age group and by activity status, per cent

	2007*	2008*	2009*	2010	2011	2012	2013	2014
<i>All persons</i>	19.1	20.0	20.6	20.5	19.2	18.6	20.6	19.1
<i>Place of residence</i>								
Urban areas	12.7	13.6	14.7	16.2	14.2	13.7	15.1	16.0
5 largest cities	7.9	10.1	10.5	14.1	12.2	11.3	11.7	12.2
other towns	19.7	18.7	20.7	19.4	17.3	17.3	20.3	22.0
Rural areas	32.2	32.9	32.7	28.4	29.2	28.5	31.7	25.5
<i>Household type</i>								
<i>Households without children</i>	20.2	21.0	21.1	18.6	15.9	18.8	19.0	18.2
Single person	49.5	47.7	46.9	27.6	25.1	31.6	33.7	34.9
Two adults younger than 65 without children	10.6	14.8	16.4	22.6	17.1	16.3	15.0	12.7
Two adults with at least one being 65 or above without children	13.4	16.5	9.8	7.7	6.6	7.6	9.9	7.1
Other households without children	6.6	7.2	8.8	12.1	10.5	12.5	9.2	9.7
<i>Households with children</i>	18.5	19.4	20.1	21.4	21.8	18.4	21.8	20.0
One adult with 1 or more children	41.5	48.3	44.3	44.4	44.0	39.2	42.8	46.0
Two adults with 1 child	14.0	12.5	14.1	19.0	15.5	12.3	17.4	20.1
Two adults with 2 children	12.7	13.2	18.0	21.1	18.9	14.9	16.8	13.5
Two adults with 3 or more children	38.2	46.0	31.3	23.4	38.4	29.2	48.1	39.8
Other households with children	14.4	15.0	14.9	16.3	14.3	15.2	11.6	9.0
<i>Age groups</i>								
0–17	22.1	22.8	23.7	23.3	25.2	20.8	26.9	23.5
18–24	15.5	17.8	17.8	22.7	24.4	20.2	19.2	19.4
25–49	14.9	14.7	17.6	20.9	17.7	16.9	19.0	17.4
50–64	17.2	20.4	21.0	22.8	18.7	18.6	18.9	17.1
65 and above	29.8	29.5	25.2	10.2	9.7	18.7	19.4	20.1
<i>By activity status (18 and above)</i>								
Employed	8.0	9.4	10.4	12.3	10.2	7.6	9.1	8.3
Unemployed	56.9	50.9	54.3	55.6	53.9	54.4	61.0	62.6
Old-age pensioners	29.8	30.8	27.6	13.3	13.1	20.8	22.7	22.0
Other inactive persons	28.9	31.3	33.5	29.9	28.3	24.5	24.2	24.3
<i>At-risk-of-poverty gap</i>	25.7	25.7	23.1	32.6	29.0	22.6	24.8	22.7
<i>At-risk-of-poverty threshold, EUR</i>								
Single person	164	206	236	202	193	217	235	241
Family (two adults with two children younger than 14 years)	344	432	495	423	405	455	493	506
Per one family member	86	107	124	106	101	114	123	127

The research of income and living conditions of residents performed by the Statistics Lithuania uses the previous data on the revenues of households participating in the research.

State assistance

One of the main factors negatively influencing the life quality of a family (a person) is low income. Therefore, the state provides support to low income families bringing up children and single residents (families bringing up children receive child benefits, poor residents receive

cash social assistance, pupils from low-income families are provided with free meal and school supplies).

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

As of 1 February 2006, the amount of the SSI was increased by LTL 10 from LTL 155 to LTL 165. As of 1 October 2006, the amount of the SSI was increased by LTL 20 to LTL 185. As of 1 January 2007, it was increased by additional LTL 20 reaching LTL 205. As of 1 October 2007, the amount of the SSI was increased by LTL 30 to LTL 235. As of 1 January 2008, this amount was increased by 50 LTL to LTL 285, and as of 1 August 2008, this amount reached LTL 350 per person. In order to ensure smooth transition from litas to euro in the Republic of Lithuania as of 1 January 2015, the amount of the SSI was increased from LTL 350 (€101) to €102.

In order to ensure the efficient use of the state assistance and protect children of families at social risk, the laws regulating cash social assistance stipulate that benefits to families at social risk are provided in compliance with the procedure established by the councils of municipalities by combining monetary and non-monetary forms of assistance provision. Municipalities form commissions from representatives of various fields, which take decisions on whether a family should be rated as an at-social-risk family and chose the way of benefit payment. Social benefit to these families is not provided in cash. They receive it in an alternative, i.e. non-monetary, form (food products, clothing, other necessary goods, etc.). It has a disciplinary effect on families and helps ensure that the provided state assistance is used for the intended purposes.

In 2011 the payment of a child benefit was continued with regard to family income in accordance with the conditions established in the Republic of Lithuania Temporary Law on Recalculation and Payment of Social Benefits (Official Gazette *Valstybės žinios*, 2009, No. 152-6820): a monthly benefit in the amount of 0.75 base social benefit (hereinafter referred to as the BSB) (LTL 97.5, since 1 January 2015 – €28.5) was granted and paid to children from birth to 2 years of age, provided that the child's parents were not paid a respective social insurance maternity (paternity) benefit or were paid the benefit if it did not exceed LTL 525; a child benefit in the amount of 0.4 BSB (LTL 52, since 1 January 2015 – €15.2) was paid to children from 2 to 7 years of age, and until 18 years of age in large families, if the average family's or cohabitants' income per person per month of the previous calendar year did not exceed 1.5 amounts of state supported income (SSI), i.e. LTL 525 (since 1 January 2015 – €153). A benefit was paid to children of large families until every child attains 18 years of age.

Payment of a child benefit subject to family income and the age of the child is a measure that ensures state assistance for poor families raising children.

On average 117 300 children (19.2% of all children in Lithuania) received child benefit per month in 2011, whereas the number of recipients in 2010 was 152 000 (24.9 % of all children in Lithuania) and expenses for this benefit decreased by approximately from LTL 127.2 million to 92.9 million).

Pursuant to the amendments of the Republic of Lithuania Law on Benefits for Children (Official Gazette, *Valstybės žinios*, 2011, No. 155-7350) since 1 January 2012, payment of a child benefit corresponding to the financial resources of the state ensures continuity of payment of a child benefit after the provisions of the Temporary Law on Recalculation and Payment of Social Benefits loosed effect, by guaranteeing financial state support for a family subject to income, if it did not exceed the amount of 1.5 SSI (LTL 525, since 1 January 2015 – €153) per person per month, and taking into account the age of the child and the number of children.

On average 107 100 children (18% of all children in Lithuania) received child benefit per month in 2012, whereas the number of recipients in 2011 was 117 300 (19.2% of all children in Lithuania) and expenses for this benefit decreased by approximately from LTL 92.9 million to 87.6 million).

In 2015, approximately 76 250 children (14.5% of all children in Lithuania) received monthly child benefits. Over 2015, if compared to 2014, the monthly decrease in the number of child benefit recipients reached almost 13.4% (from 88 000 children to 76 250), and expenses for this benefit decreased by approximately 13.4% (from € 20.1 million to 17.4 million).

The decrease in the number of recipients of a child benefit and the expenditure on this type of benefit was caused by the legal regulation of payment of a child benefit effective as of 1 January 2012 stipulating that a child benefit was paid on the basis of family income, including the income of a family raising children under 2 years of age, as well as by the statistical tendency of decreasing number of children and growing personal income level.

State guaranteed cash social assistance is consistently provided with regard to the national social and economic development and financial capacity of the state. Currently, state support has been targeted at poor families.

Seeking to support families raising school-age pupils and develop healthy diet habits of pupils at school in accordance with the Republic of Lithuania Law on Social Assistance for Pupils (Official Gazette, *Valstybės žinios*, 2006, No. 73-2755, 2008, No. 63-2382), pupils from low-income families (the average income per family member per month does not exceed the amount of 1.5 SSI (LTL 525 (€153)) are entitled to free meal and assistance for the acquisition of school supplies. Taking into consideration the living conditions of families, pupils are also granted free meals in other cases established by the municipality. If pupils are entitled to free meals in the last month of a school year, they are entitled to free meals at summer day camps organised in schools during summer holidays.

In order to ensure efficient use of funds from the state and municipal budgets and seeking that child nutrition complies with physiological standards, minimum and maximum daily amounts of funds allocated per pupil for the acquisition of products have been established. Pupils are provided with free meals at school that they attend, irrespective of their place of residence. Assistance for the acquisition of school supplies is provided in cash, except cases where a pupil is raised in a family at social risk (that benefits to families at social risk are provided in compliance with the procedure established by the councils of municipalities). The amount of LTL 156 (since 2015 €45,6) of this type of assistance is allocated per pupil.

In 2011, as compared to 2010, the number of pupils who received free lunch fell insignificantly from 144 400 to 142 400 (by 1.4%) and the number of pupils who received free breakfast fell from 8 300 to 2 500 pupils (by 70%). The decrease in the number of children who received free breakfast was determined by the provision enabling municipalities to independently decide which type of free meals (only lunch or together with breakfast/afternoon meal) to provide in their founded schools. However, in 2011, as compared to 2010, the expenditure on free meals increased from LTL 91.1 million to LTL 92.8 million (by 1.9%).

In 2011, LTL 21.4 million from the state budget were spent on assistance for the acquisition of school supplies at the beginning of a new school year, which is 7% (LTL 1.6 million) less than in 2010. In 2011, as compared to 2010, the number of recipients of assistance for the acquisition of school supplies fell by 6.8% from 147 500 to 137 400.

Due to still complicated economic situation in the country and high unemployment rate, the number of children from low-income families, who receive free meals, decreased slightly (by 1.4%) in 2011, as compared to 2010, and remained rather high, as compared to the pre-crisis period: the number of children from low-income families, who received free meals in 2011 (142 400), was 53% bigger than in 2008 (93 000).

During 2015, as compared with 2014, the number of pupils who received free meals per month decreased by 16.2% (from 90 500 to 75 800 pupils), the number of beneficiaries of assistance for the acquisition of school supplies decreased by 15.9% (from 80 400 to 67 600 pupils).

With regard to the decreased number of children who received social assistance for pupils and ignoring the fact that the amount of funds allocated for the purchase of food products per pupil per day grew, expenses for social assistance for pupils decreased by 12.8 per cent (from €23 million to €20,05 million) in 2015, as compared with 2014.

Cash social assistance is one of the measures which affects the reduction of poverty and social exclusion as well as strengthens the family institution. Changes in the economic and social life determine changes in the legal regulation of social assistance; therefore, while the economic situation in the country stabilises, efficient measures are searched in order to ensure payment of social benefits, there are efforts to improve the system of provision of cash social assistance, reduce social exclusion of poor residents and the risk of poverty trap while ensuring motivation of residents to work and realise their social purpose.

The implementation of the provisions of the Republic of Lithuania Law on Cash Social Assistance for Poor Residents (*Official Gazette, Valstybės žinios*, 2003, No. 73-3352, 2011, No.155-7353) involves the application of the common scheme of social assistance in cash on the basis of income and property evaluation in Lithuania. The disadvantaged layer of the population receive social benefit in order to ensure minimum funds to meet their basic physiological needs as well as compensations covering heating and hot and drinking water expenses (hereinafter referred to as compensations) as partial reimbursement for dwelling maintenance. Under these conditions, efficient provision of cash social assistance to socially vulnerable groups of the population is the most important measure for reducing poverty and social exclusion.

Having evaluated the social and economic changes in the country and seeking accurateness and efficiency of provided cash social assistance as well as a more rational use of the state budget funds, reorganisation of the cash social assistance system commenced on 1 January 2012.

Its purpose was to seek greater accuracy and efficiency of provided cash social assistance ensuring cash social assistance for persons who are most in need of it, to boost motivation of people of working age to integrate into the labour market, to reduce long-term dependency on social assistance, the risk of poverty trap and possibilities of abuse of cash social assistance.

The Law established a legal basis to provide cash social assistance to poor residents through two models: as a state function (assigned by the state to municipalities) and as an independent municipal function in five pilot municipalities.

In 2015 the implementation of cash social assistance (payment of social benefit and compensations for heating and hot and drinking water expenses) as an independent municipal function was transferred to all municipalities.

With a view to enhancing the powers of municipalities and involving communities in the process of provision of cash social assistance, seeking to create the conditions for receiving assistance when a person is in great need and to reduce social exclusion, more rights and responsibility have been assigned to municipalities with regard to granting cash social assistance.

One of the principles of cash social assistance for poor residents is principle of cooperation and participation, which provides, that cash social assistance is based on cooperation and mutual aid of community of people who apply for cash social assistance, non-governmental organizations, municipalities, public authorities and institutions.

Publicity is the most important achievement of the reorganisation of cash social assistance system. Residents of municipalities are informed about the new procedure – possibilities to receive cash social assistance and intolerance to abuse – through mass media, meetings of municipality leaders and specialists with residents in elderships, consideration of complicated cases in Social Assistance Provision Commissions (Councils) formed in elderships, etc.

During the legal monitoring of implementation of cash social assistance for poor residents, it was found that the members of local community were actively engaging to provide information for municipality social departments about the necessity of helping people with financial problems and also about cases of social assistance abuse.

On average, in 2012 221 900 persons (7.4% of the whole population of Lithuania) received social benefit on a monthly basis. As compared with 2011, the average number of persons receiving social benefit increased by 0.36% (from 221 100 to 221 900 persons), whereas expenses for payment of social benefit decreased by 2.1 % (from LTL 612.3 million to LTL 599.5 million) per month.

Due to the improving economic situation in the country, falling unemployment rate and growing personal income level on average, in 2015, 110 700 persons (3.8% of the whole population of Lithuania) received social benefits on a monthly basis. Compared to 2014, the average number of persons receiving social benefits on a monthly basis decreased by 21% (from 140 100 to 110 700 persons), and expenses for payment of social benefits decreased by 25.5% (from €103.8 million to €77.3 million).

Municipalities administrations following an assessment of individual living conditions have been conferred the right to grant social benefit and compensations for heating, drinking and hot water expenses on an exceptional basis. In 2015 3 400 persons were granted cash social assistance on an exceptional basis (in 2014 – 2 200 persons). In 2015, as compared with 2014, expenses on cash social assistance on an exceptional basis increased by 275% (from € 0.4 million to € 1.5 million).

Our task is to continue monitoring the implementation of legal regulation and further strengthen the links to activation measures in order to ensure the provision of assistance for persons who need it the most, to stimulate people`s individual and communal responsibility.

Social services

In 2014, two more lodging houses were opened. On average the number of persons who were provided daily with a temporary night shelter decreased to 89 persons.

In 2014, 2 410 persons were provided with temporary shelter in 45 crisis centres and 5 800 persons were provided with social services without accommodation. A total of 1023 persons ill with addictive disorders were served in twenty psychological and social rehabilitation centres.

In municipalities the number of social workers has been increased yearly: 630 in 2010; 631 in 2011; 631 in 2012; 635 in 2013; 718 in 2014. In 2014, a total number of social risk families decreased to 9 900 with 19 700 children.

Health Care

The Law on Health Insurance of the Republic of Lithuania provides for a universal (compulsory) health insurance model based on the principle of solidarity. That means that health insurance contributions made by all citizens of the Republic of Lithuania and foreigners permanently residing in Lithuania and legally employed temporary residents of Lithuania as well as state budgetary funds are accumulated in the Compulsory Health Insurance Fund and allocated to cover the expenses on health care services or issued reimbursed medicinal products or medicinal aids of the insured persons. The system of health insurance assures that everyone is provided with the necessary amount of services irrespective of his or her contributions.

It should be emphasised that the most socially vulnerable persons, i.e. children, full-time students, the unemployed registered with the labour exchange, persons with the social pension insurance period necessary to receive pension, the disabled and other persons with no income used to calculate health insurance contributions are insured with compulsory health insurance by state funds. The major part of the population is insured due to contributions which are paid on their behalf by the State budget.

Figure 30.2

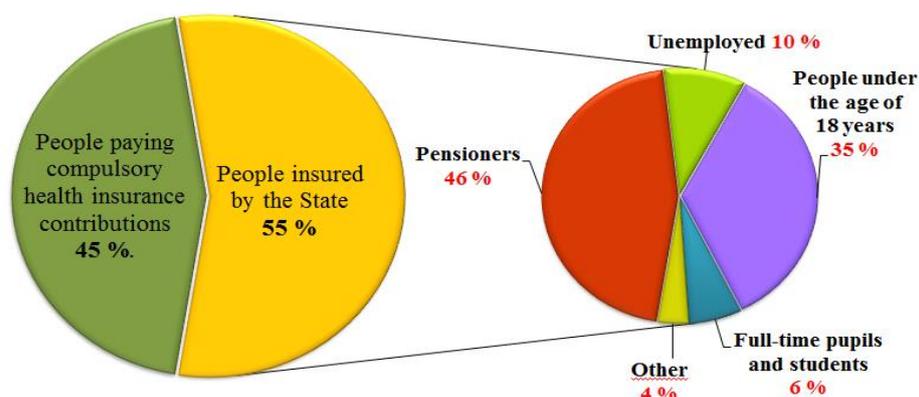
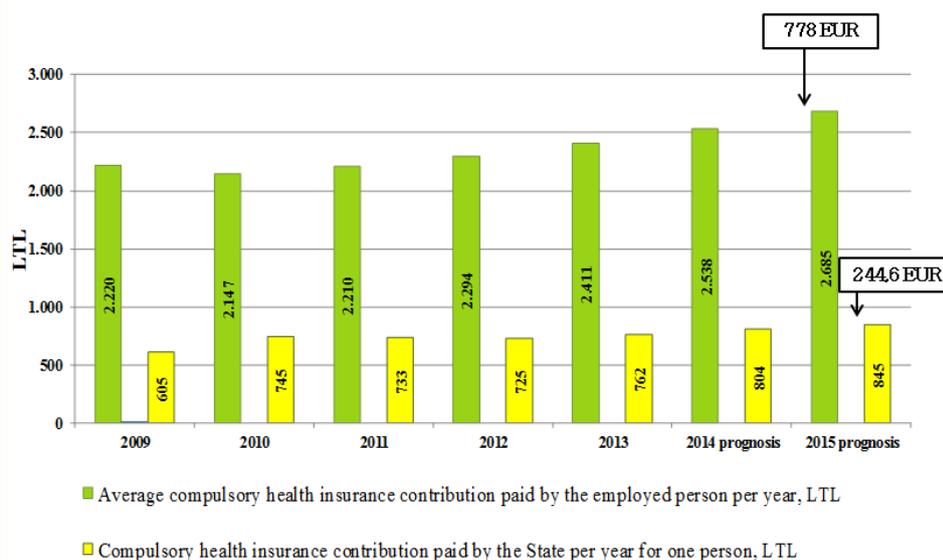


Figure 30.3 Comparisons of Compulsory Health Insurance Contributions from 2009 to 2015

As it can be seen in a figure above, since 2010 state contributions for one person insured with compulsory health insurance has been increasing every year.

Social housing

Social housing, payment of a compensation for part of housing rental or lease payment, state-supported housing credits are a part of social assistance for poor residents.

Social housing has been rented to small property and low-income families and individuals who have no dwelling or not suitable dwelling according to the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing. Social housing is under the responsibility of municipalities. Priority to get social housing is given to families with 5 or more children, to families in which 3 or more children have been born at the same time, also to lonely disabled persons.

Support for the rental of housing is also provided through payment of a compensation for part of housing rental or lease payment. Provision of state support for the rental of housing aims at ensuring that small property and low-income individuals, who have no dwelling or not suitable dwelling according to the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing and no possibility to acquire own dwelling, could rent housing.

There is the state support for the acquisition of housing, which is provided through subsidising part (10 or 20 %) of the housing loan, covering the housing loan interest. Provision of support for the acquisition of housing aims at ensuring that families and individuals meeting the requirements set out in legislation (whose income and property do not exceed the maximum amounts of income and property established in the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing) could acquire a dwelling in the market by themselves.

Opinion of the Committee

The Committee provided information concerning interpretation and case law, drawing attention to the fact that, while Article 30 is closely linked to other provisions of the Charter (in particular Articles 1, 9, 10, 12, 13, 14 and 31 as well as Article E), which are accordingly taken

into account when assessing conformity with Article 30, yet a separate assessment takes place under this provision.

It also pointed out that Article 30 concerns not only poverty intended as a lack of income, but more generally all situation of social exclusion.

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights as well as monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion. It must link and integrate policies in a consistent way moving beyond a purely sectoral or target group approach. Normally, some sort of coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty, should be provided. At the very least, States Parties should demonstrate that poverty and social exclusion reduction is an embedded aspect of all the relevant strands of public policy.

The measures taken for such a purpose must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance. The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions. Positive measures for groups generally acknowledged to be socially excluded or disadvantaged must be adopted by States Parties. Access to fundamental social rights is assessed by taking into consideration the effectiveness of policies, measures and actions undertaken.

As long as poverty and social exclusion persist, adequate resources should be deployed and increased to make social rights possible. The economic crisis should not have, as a consequence, a reduction in the protection of vulnerable persons. The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned. In this respect the definitions and measuring methodologies applied at the national level and the main data made available are systematically reviewed. The at-risk-of-poverty rate before and after social transfers (Eurostat), is used as a comparative value to assess national situations.

In view of these requirements, the Committee considered that Lithuania may be in a position to accept this provision, provided that adequate measures exist in favour of socially excluded or disadvantaged groups, such as Roma. It accordingly recommended acceptance of Article 30.

Article 31§3 *The right to housing - Affordable housing*

Situation in Lithuania

The Government reported that social housing, payment of a compensation for part of housing rental or lease payment, state-supported housing credits are a part of social assistance for poor residents.

Social housing has been rented to small property and low-income families and individuals who have no dwelling or not suitable dwelling according to the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing. Social housing is under the responsi-

bility of municipalities. Priority to get social housing is given to families with 5 or more children, to families in which 3 or more children have been born at the same time, also to lonely disabled persons.

Support for the rental of housing is also provided through payment of a compensation for part of housing rental or lease payment. Provision of state support for the rental of housing aims at ensuring that small property and low-income individuals, who have no dwelling or not suitable dwelling according to the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing and no possibility to acquire own dwelling, could rent housing.

There is the state support for the acquisition of housing, which is provided through subsidising part (10 or 20 %) of the housing loan, covering the housing loan interest. Provision of support for the acquisition of housing aims at ensuring that families and individuals meeting the requirements set out in legislation (whose income and property do not exceed the maximum amounts of income and property established in the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing) could acquire a dwelling in the market by themselves.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, emphasizing that, under this provision, an adequate supply of affordable housing must be ensured.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other costs (utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located. In particular, states must show that the affordability ratio of the poorest applicants for housing is compatible with their level of income.

They are furthermore required to:

- adopt appropriate measures for the construction of housing, in particular social housing;
- ensure access to social housing for all disadvantaged groups of people. Measures to reduce waiting times which are very long must be adopted. Legal remedies must be available in the event of excessive waiting times.
- introduce housing benefits for low-income and disadvantaged sections of the population. Housing allowance is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.

Equal treatment with respect to housing (Article E) must be guaranteed, in particular, to the different groups of vulnerable persons, particularly low-income persons, the unemployed, single parent households, young persons, persons with disabilities including those with mental health problems as well as Roma or travellers.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in Lithuania. In particular, information would be needed on the waiting periods for accessing social housing and on legal or other remedies available in case such waiting periods are excessive. Information would furthermore be needed on the measures taken to ensure that no discrimination apply in respect of vulnerable persons (such as Roma and travellers). The Committee invited Lithuania to continue its consideration of this provision with a view to its possible acceptance in the near future.

III. EXCHANGE OF VIEWS ON THE COLLECTIVE COMPLAINTS PROCEDURE

The president of the Committee provided an overview of the collective complaints procedure, which had been so far accepted by 15 member States, including 14 states party to the European Union.

He noted that the collective complaints procedure, which came into force in 1998 under an Additional Protocol to the European Social Charter, complemented the judicial procedure under the European Convention of Human Rights. However, it was not a system of individual applications.

The aim of the procedure was to increase the effectiveness and the speed of the implementation of the European Social Charter and also to increase the role of the Social partners and NGOs by giving them a more prominent role in enabling them to directly apply to the Committee when they consider that the Charter is not correctly applied in a country.

The complainant organisation is not necessarily a victim and there is no obligation to exhaust domestic remedies.

The organisations entitled to lodge collective complaints are as follows:

- the European social partners: European Trade Union Confederation (ETUC), for employees; Business Europe and International Organisation of Employers (OIE), for employers;
- certain international non-governmental organisations (INGOs) holding participatory status with the Council of Europe;
- social partners at national level.

Furthermore, any State may grant representative national non-governmental organisations (NGOs) within its jurisdiction the right to lodge complaints against it. So far, only Finland has done so.

A complaint may be declared admissible even if a similar case has already been submitted to another national or international body. The fact that the substance of a complaint has been examined as part of the Charter supervision procedure based on government reports does not constitute an impediment to the complaint's admissibility.

The fact that a complaint relates to a claim already examined in the context of a previous complaint is not in itself a reason for inadmissibility; the submission of new evidence during the examination of a complaint may prompt the Committee to re-assess a situation it has already examined in the context of previous complaints and, where appropriate, take decisions which may differ from the conclusions it adopted previously.

Decision on the merits

If the complaint is declared admissible, the Committee asks the respondent State to make written submissions on the merits of the complaint within a time limit which it sets. The President then invites the organisation that lodged the complaint to submit, on the same conditions, a response to these submissions. The President may then invite the respondent State to submit a further response. It is a real adversarial procedure.

International organisations of employers and trade unions are invited to make observations on complaints lodged by national organisations of employers and trade unions or by non-

governmental organisations. The observations submitted here are transmitted to the organisation that lodged the complaint and to the respondent State.

The Committee may also invite any organisation, institution or person to submit observations. Any observation received by the Committee is transmitted to the respondent State and to the organisation that lodged the complaint.

In the course of the examination of the complaint, the European Committee of Social Rights may organise a hearing. The hearing may be held at the request of one of the parties or on the Committee's initiative. The hearing is public unless the President decides otherwise.

Following deliberation, the Committee adopts a decision on the merits of the complaint. It decides whether or not the Charter has been violated. The decision is notified to the parties and the Committee of Ministers.

Insofar as they refer to binding legal provisions and are adopted by a monitoring body established by the Charter and the Protocol providing for the system of complaints, the decisions of the European Committee of Social Rights must be taken into consideration by the States concerned; however, they are not enforceable in the domestic legal system. In practice, this means that when the Committee rules that the situation in a country is not in compliance with the Charter, the complainant organisation cannot require the committee's decision to be enforced in domestic law as would be the case with a ruling by a court in the State concerned.

The decisions of the Committee – like its Conclusions in the reporting system - are declaratory; in other words, they set out the law. On this basis, national authorities are required to take measures to give them effect under domestic law. In this connection, domestic courts could declare invalid or set aside domestic legislation if the Committee has ruled that it is not in compliance with the Charter, depending on the internal legal system of the State.

In the event of violation of the Charter, the State is asked to notify the Committee of Ministers of the Council of Europe of the measures taken or planned to bring the situation into conformity.

The Committee of Ministers may adopt a resolution, by a majority of those voting. The resolution takes account of the respondent State's declared intention to take appropriate measures to bring the situation into conformity. The Committee of Ministers' decision is based on social and economic policy considerations not on legal considerations.

If the State in question does not indicate its intention to bring the situation into conformity, the Committee of Ministers may also adopt a recommendation to the State. In view of the importance of this decision, a two-thirds majority of those voting is required here. In the case of both resolutions and recommendations, only States party to the Charter may take part in the vote.

The European Committee of Social Rights' decision on the merits of the complaint is made public at the latest four months after the report is transmitted to the Committee of Ministers and is published on the Council of Europe website.

Ultimately, it falls to the Committee to determine whether the situation has been brought into compliance with the Charter.

The Committee's findings of violation in the framework of the complaints procedure are not intended to be decisions against states. The spirit and purpose of the procedure, as the Committee understands it, is not to put the State on trial for its lack of implementation of the

Charter. It is rather to put the normative provisions of the Charter to the test of specific and concrete situations. It is to assess what a State has to do or to prevent in order to guarantee the application of rights of the Charter in specific situations. In other words, the purpose is to give an additional opportunity to states parties to bring the situation into conformity and to prevent possible further violations of the Charter.

There are other added values of the procedure: the complaints procedure is also important because it opens the Charter to the civil society, to its very beneficiaries, those who are directly concerned with the implementation of the Charter and who are the best guardians of these rights.

Furthermore, accepting the procedure now produces an advantage to the States concerned in terms of reporting burden under the Charter: States having accepted the complaint procedure are exempted from some reporting obligations under the Charter.

Experience has shown that, since the introduction of the procedure, the number of complaints over time had been relatively limited and has not created an undue burden on governments.

The president also recalled that, in the framework of the Turin process started in 2014, reinforcement of the collective complaints procedure was a priority and all member States had been called on to ratify the Protocol. It provided a legal tool for guaranteeing the full enjoyment of fundamental social and economic rights and had important implications for improving democracy through the involvement of civil society as actors.

The Government authorities pointed out that, within the framework of the reporting system, all the information was regularly communicated to the social partners. They expressed their view that any problematic issues which might need consideration could be raised by the social partners in the context of this procedure, although so far they had not availed themselves of this possibility. Nevertheless, Lithuanian social partners usually provide relevant information to observers in the [Governmental Committee of the European Social Charter and European Code of Social Security](#), who represent European employers' organisations and trade unions.

They also indicated that the Social Charter enjoyed direct applicability before Lithuanian courts and referred to cases in which the court had found that the Social Charter had been incorrectly applied.

IV. EXCHANGE OF VIEWS ON SEVERAL ACCEPTED PROVISIONS

At the request of the Lithuanian authorities, an exchange of views took place on certain accepted provisions (Articles 12§4, 4§5 and 8§2) on which the Lithuanian situation had been found not to be in conformity with the Charter.

Article 4§5 *The right to a fair remuneration - Limits to deductions from wages*

In its Conclusions 2014, the situation in Lithuania was found not to be in conformity with Article 4§5 of the Charter on the ground that after all authorised deductions, the wages of workers with the lowest pay did not allow for them to provide for themselves or their dependents. In particular, the Committee had noted in this respect that, under certain circumstances, the Labour Code authorised deductions of up to 50% or even 70%.

The Committee recalled that Article 4§5 guarantees workers (including civil servants and contractual staff in the civil service) the right to their wage being subject to deductions only in circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award). Accordingly, workers should not be allowed to waive their right to limitation of deductions from their wage and the way in which such deductions are determined should not be left at the disposal of the sole parties to the employment contract.

Such deductions (including trade union dues, disciplinary fines, maintenance payments, re-payment or wage advances, tax debts, compensation for benefits in kind, wage assignments or transfers, etc.) must be subject to reasonable limits and should not *per se* result in depriving workers and their dependents of their means of subsistence.

The Committee pointed out that, as the minimum wage applied to private sector workers was found not adequate to ensure a decent standard of living under Article 4§1 of the Charter, any further deduction applied to such wage would result in depriving workers and their dependents of their means of subsistence and was accordingly not in conformity with Article 4§5.

The Government indicated that, although further reforms in this area were not currently envisaged, the level of minimum salary had been in the meantime increased, with a view to bringing the situation in conformity with the Charter. It also clarified that a 70% deduction would not be applicable to a person earning a minimum salary. In general, deduction from minimal monthly wage shall not exceed 20%. 50% deduction is used in very exceptional cases, for example, in certain cases concerning compensation to the victim of a criminal act.

Article 8§2 *The right of employed women to protection of maternity - Non-dismissal*

In its Conclusions 2015, the situation in Lithuania was found not to be in conformity with Article 8§2 of the Charter on the ground that exceptions to the prohibition of dismissal of employees during pregnancy or maternity leave were excessively broad. In particular, the Committee considered that the dismissal of an employee upon request of bodies or officials authorised by law raised problems of compatibility with Article 8§2 of the Charter. Similarly, the Committee indicated that the employee's inability to perform her work for reasons related to her health was not a circumstance which authorised dismissal under Article 8§2 of the Charter.

The Government explained the exceptions under which Article 136 of the Labour Code authorised the dismissal during pregnancy or maternity leave. In particular, it confirmed that such dismissal was indeed possible when the employee would lose title to perform her work, as for example in the case of loss of a driving licence for a public transport employee (Article 136§1.ii), upon request of bodies or officials authorised by law, for example pending a judicial procedure (Article 136§1.iii) or for medical reasons, when for example no possibility existed to place the person in a post compatible with her state of health (Article 136§1.iv). The Government indicated that, in the framework of the reform of the Labour Code, currently under way, it was envisaged to remove Article 136§1.iii.

The Committee welcomed this information and recalled that Article 8§2 of the Charter permits the dismissal of an employee during pregnancy and maternity leave only as an exception in case of misconduct which justifies breaking off the employment relationship, if the undertaking ceases to operate or if the period prescribed in the employment contract expires. These exceptions are however strictly interpreted.

Accordingly, examples of case-law relating to the application of Article 136§1.ii and iii would be needed to show evidence that they concern cases directly related to misconduct justifying

breaking off the employment relationship and that they are subject to effective judicial control. As regards dismissal for medical reasons, however, the Committee maintained that this could not be regarded as a valid reason for dismissal under Article 8§2 of the Charter and that protective measures should instead apply to the employee concerned. It also drew attention, however, to the fact that the prohibition of dismissal under Article 8§2 only covered a specific period, namely from the time the employee notifies her employer that she is pregnant until the end of her maternity leave and that a notification of dismissal during the period of protection does not, as such, amount to a violation of the provision, provided that the period of notice and any procedures are suspended until the end of the period of protection.

Article 12§4 – National treatment and granting, maintenance and resumption of social security rights accrued under the legislation of other Parties

In its Conclusions 2013, the situation in Lithuania was found not to be in conformity with Article 12§4 of the Charter on the grounds 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.

With regards to the first ground of non-conformity, the Committee recalled that, under Article 12§4, legislation may require a completion of a period of residence for non-contributory benefits, provided that such period was reasonable. On the other hand, no direct or indirect discrimination should apply to nationals of other States in respect of contributory benefits. In this connection, the fact that a foreigner must have lived in Lithuania for a minimum uninterrupted period of five years before being entitled to permanent resident status and therefore to state social insurance pensions was not found to comply with Article 12§4.

As regards the second ground of non-conformity, the Committee took note of the concern expressed by the Lithuanian delegation in respect of sickness and maternity benefits and indicated that it would reconsider the issue during its next examination on Article 12§4.

As for the third ground of non-conformity, Lithuania was invited to ensure maintenance of accruing rights by ratifying the European Convention on Social Security, or concluding bilateral agreements with the States concerned or by taking, unilaterally, legislative or administrative measures.

APPENDIX I

Programme of the meeting on the non-accepted provisions of the European Social Charter



PROGRAMME

MEETING ON THE NON-ACCEPTED PROVISIONS OF THE EUROPEAN SOCIAL CHARTER

organised by

Department of the European Social Charter, DG I
Council of Europe,
Ministry of Social Security and Labour of the Republic of Lithuania
and
Seimas of the Republic of Lithuania

Vilnius, 6 April 2016

Venue: Hall of Constitution, First Chamber of Seimas (Parliament), Gedimino ave. 53, Vilnius

Working languages: English and Lithuanian

The meeting is organised in the framework of the procedure provided for by Article 22 of the Charter on “non-accepted provisions”. It will consist of an exchange of views and information on the provisions not accepted by Lithuania. There will be an exchange of views on the collective complaints procedure, as well as on certain accepted provisions.

9.00 Registration of participants**9.30 Exchange of views on the provisions of the European Social Charter not yet accepted by Lithuania: opening of the meeting**

Mr Gintaras KLIMAVIČIUS, Vice Minister of Social Security and Labour, Lithuania

Mr Vydas GEDVILAS, First Deputy Speaker of Seimas (Parliament) of the Republic of Lithuania

Mr Régis BRILLAT, Executive Secretary of the European Committee of Social Rights, Council of Europe

9.45 Articles 12§2, 13§4 and 23

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*), Article 13§4 (*Specific emergency assistance for non-residents*), Article 23 (*Right of the elderly to social protection*)

- The situation in law and in practice in Lithuania – presentations by:

Ms Kristina VYŠNIAUSKAITĖ-RADINSKIENĖ (Article 12§2), Deputy Head, International Law Division, Ministry of Social Security and Labour

Ms Rima KURLIANSKIENĖ (Article 13§4), Advisor, Financial Social Assistance Division, Ministry of Social Security and Labour

Ms Rita BABIANSKAITĖ (Article 23), Chief Specialist, Social Insurance and Funded Pensions Division, Ministry of Social Security and Labour

Mr Tomas MILEVIČIUS (Article 23), Deputy Head, Family Policy Division, Ministry of Social Security and Labour

Ms Guoda VAIČEKAUSKAITĖ (Article 23), Chief Specialist, Social Services Division, Ministry of Social Security and Labour

Ms Odeta VITKŪNIENĖ (Articles 13§4, 23), Head, Care Coordination Division, Ministry of Health

Ms Lina NOREIKIENĖ (Articles 13§4, 23), Deputy Head, International Affairs Division, National Health Insurance Fund under the Ministry of Health

Ms Jolita BEČIENĖ (Article 23), Chief Specialist, Professional Art Division, Ministry of Culture

- Presentations by:

Mr Régis BRILLAT (Article 12§2),

Mr Giuseppe PALMISANO (Article 13§4) President of the European Committee of Social Rights, and

Mr József HAJDÚ (Article 23), member of the European Committee of Social Rights

- Discussion

10.45 Coffee break

11.00 Articles 30 and 31§3

Article 30 (*Right to be protected against poverty and social exclusion*) and 31§3 (*right to affordable housing*)

- The situation in law and in practice in Lithuania – presentations by:
 - Ms Gražina JALINSKIENĖ (Article 30), Head, Strategic Analysis Division, Ministry of Social Security and Labour
 - Ms Guoda VAIČEKAUSKAITĖ (Article 30), Chief Specialist, Social Services Division, Ministry of Social Security and Labour
 - Ms Odeta VITKŪNIENĖ (Article 30), Head, Care Coordination Division, Ministry of Health
 - Ms Lina NOREIKIENĖ (Article 30), Deputy Head, International Affairs Division, National Health Insurance Fund under the Ministry of Health
 - Ms Justina DZIČKANCAITĖ (Article 31§3), Chief Specialist, Social Housing Division, Ministry of Social Security and Labour
- Presentation by Mr József HAJDÚ
- Discussion

11.30 Articles 18§2 and 18§3

Article 18§2 and 18§3 (*Right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes ; Liberalising regulations*)

- The situation in law and in practice in Lithuania – presentations by:
 - Ms Daiva LIUGIENĖ, Deputy Head, Labour Recourses Division, Lithuanian Labour Exchange under the Ministry of Social Security and Labour
 - Ms Honorata MASALSKIENĖ, Chief Specialist, Labour Market Services Subdivision, Lithuanian Labour Exchange under the Ministry of Social Security and Labour
- Presentation by Ms Elena MALAGONI, Department of the European Social Charter, Council of Europe
- Discussion

12.00 Articles 19§2, 19§4, 19§6, 19§8 and 19§12

Article 19 (*right of migrant workers and their families to protection and assistance: departure, journey and reception of migrant workers; equality regarding employment, right to organise and accommodation; family reunion; guarantees applying to deportation; teaching of migrants' mother tongue*)

- The situation in law and in practice in Lithuania – presentations by:
 - Ms Lucija VOIŠNIS (Articles 19§2, 19§6, 19§8), Head, Immigration Affairs Division, Migration Department at the Ministry of the Interior
 - Ms Vita BALIUKEVIČIENĖ (Article 19§4), Head, Labour Law Division, Ministry of Social Security and Labour
 - Ms Justina DZIČKANCAITĖ (Article 19§4), Chief Specialist, Social Housing Division, Ministry of Social Security and Labour

Ms Ona ČEPULĖNIENĖ (Article 19§12), Chief Specialist, Lower and Upper Secondary Education, Ministry of Education and Science

- Presentation by Mr Régis BRILLAT
- Discussion

13.00 Lunch

14.30 The collective complaints procedure

- Introduction by Mr Giuseppe PALMISANO
- Comments by a representative of the Lithuanian authorities

15.30 Exchange of views on several accepted provisions: Article 12§4

- Presentations by:
 - Ms Rita BABIANSKAITĖ, Chief Specialist, Social Insurance and Funded Pensions Division, Ministry of Social Security and Labour
 - Ms Urbaitė Ūla, Chief Specialist Social Insurance Division, Ministry of Social Security and Labour
 - Ms Kristina VYŠNIAUSKAITĖ-RADINSKIENĖ, Deputy Head, International Law Division. Ministry of Social Security and Labour
- Presentation by Mr Régis BRILLAT

16.00 Coffee break

16.15 Exchange of views on several accepted provisions: Articles 4§5, 8§2

- Presentations by:
 - Ms Kristina VYŠNIAUSKAITĖ-RADINSKIENĖ (Article 4§5)
 - Ms Vita BALIUKEVIČIENĖ (Articles 4§5, 8§2), Head, Labour Law Division, Ministry of Social Security and Labour
- Presentations by:
 - Mr Giuseppe PALMISANO (Article 4§5),
 - Ms Elena MALAGONI (Article 8§2)

17.00 Concluding remarks

Mr Gintaras KLIMAVIČIUS, Vice Minister of Social Security and Labour, Lithuania

Mr Giuseppe PALMISANO, President of the European Committee of Social Rights

Closing of the meeting

APPENDIX II

Situation of Lithuania with respect to the European Social Charter

— Lithuania and the European Social Charter —

Signatures, ratifications and accepted provisions

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

Lithuania has not yet accepted the system of collective complaints.

The Charter in domestic law

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

Table of accepted provisions

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

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Lithuania](#) in 2007 and in 2013.

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

Monitoring the implementation of the European Social Charter ¹

I. Reporting system ²

Reports submitted by Lithuania

Between 2003 and 2016, Lithuania submitted 13 reports on the application of the Revised Charter.

The [13th report](#), submitted on 29 January 2016 covers the accepted provisions relating to Thematic Group 1 "Employment, training and equal opportunities", (Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the Revised Charter).

In addition, the report provides the information required by the Committee in the framework of Conclusions 2014 relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter), in the event of non-conformity for lack of information.

Conclusions with respect to these provisions will be published in January 2017.

The 14th report, which should be submitted by 31/10/2016, should concern the accepted provisions relating to Thematic Group 2 "Health, Social security and social protection", namely:

- the right to safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),
- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 23),
- the right to protection against poverty and social exclusion (Article 30).

In addition, the report should provide the information required by the Committee in the framework of Conclusions 2015 relating to Thematic Group 4 "Children, families, migrants" (Articles 7, 8, 16, 17, 19, 27 and 31 of the Revised Charter), in the event of non-conformity for lack of information.

Conclusions with respect to these provisions will be published in January 2018.

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

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

² Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years. Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups. Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ³

Thematic group 1 “Employment, training and equal opportunities” - Conclusions 2012

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

The average time to satisfy workers' claim in case of insolvency of their employer is excessive.

Thematic group 2: “Health, social security and social protection” - Conclusions 2013

- ▶ *Article 3§3 - Right to safe and healthy working conditions - Enforcement of safety and health regulations*

Measures to reduce the excessive rate of fatal accidents are inadequate.

- ▶ *Article 11§2 - Right to protection of health - Advisory and educational facilities*

It has not been established that prevention through screening is used as a contribution to the health of the population.

- ▶ *Article 12§1 - Right to social security - Existence of a social security system*

- 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.

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

- 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 State Parties;
- It has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

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

The level of social assistance paid to 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.

Thematic group 3: “Labour rights” - Conclusions 2014

- ▶ *Article 2§1- Right to just conditions of work - Reasonable working time*

For some categories of workers a working day may be allowed of up to 24 hours.

- ▶ *Article 4§1 – Right to a fair remuneration – Decent remuneration*

The minimum wage applied to private sector workers does not ensure a decent standard of living.

- ▶ *Article 4§2 – Right to a fair remuneration - Increased remuneration for overtime work*

It has not been established that the exception to the right to increased remuneration applies only to senior officials and management executives.

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

No notice is given in case of termination of employment based on a judicial decision which prevents the performance of work; the withdrawal of administrative licences required for the performance of work; the request from bodies or officials authorised by the law; and the unfitness for work certified by authorised bodies.

- ▶ *Article 4§5 – Right to a fair remuneration - Limits to deduction from wages*

³ Further information on the situations of non-conformity is available on the [HUDOC database](#).

After all authorised deductions, the wages of workers with the lowest pay do not allow for them to provide for themselves or their dependants.

► *Article 6§2 - Right to bargain collectively - Negotiation procedures*

It has not been established that the machinery for voluntary negotiations has been efficiently promoted.

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

It has not been established that employees are given appropriate and effective protection against moral harassment in the workplace or in relation to work.

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

The protection afforded to workers' representatives does not extend to a period after the mandate.

Thematic group 4: "Children, families and migrants" - Conclusions 2015

► *Article 7§1 – Right of children and young persons to protection - Prohibition of employment of children under the age of 15 and Article 7§3 – Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

During school holidays the daily and weekly working time for children subject to compulsory education is excessive and therefore the work cannot be qualified as light work.

► *Article 8§2 – Right of employed women to protection of maternity - Illegality of dismissal during maternity leave*

Exceptions to the prohibition of dismissal of employees during pregnancy or maternity leave are excessively broad.

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

- family benefits are not of an adequate level for a significant number of families;
- equal treatment of nationals of other States Parties with regard to the payment of family benefits is not ensured due to an excessive length of residence requirement

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

Corporal punishment of children is not prohibited in the home, in schools and in institutions.

► *Article 31§1 – Right to housing – Adequate housing*

Measures taken by public authorities to improve the substandard housing conditions of most Roma are insufficient.

► *Article 31§2 – Right to housing – Reduction of homelessness*

It has not been established that:

- there are measures in place to prevent persons having lost their right to municipal subsidised housing to become homeless;
- there exists legal protection for persons threatened by eviction;
- the right to shelter is adequately guaranteed.

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

Thematic group 1 “Employment, training and equal opportunities”

- ▶ Article 1§1 - Conclusions 2012

Thematic group 2 : “Health, social security and social protection”

- ▶ Article 3§4 - Conclusions 2013
- ▶ Article 11§1 - Conclusions 2013

Thematic group 3: “Labour rights”

- ▶ Article 4§3 - Conclusions 2014
- ▶ Article 26§1 - Conclusions 2014

Thematic group 4: “Children, families and migrants”

- ▶ Article 7§5 - Conclusions 2015

II. Examples of progress achieved in the implementation of rights under the Charter (*update in progress*)

Children

► Extension of the number of child allowance beneficiaries (Child Allowances Act, entry into force 1 July 2004).

Social and legal protection

► A draft Act on Protection from Domestic Violence was submitted to the Government on 12 May 2010. The purpose of the draft legislation is to respond quickly to violations, impose sanctions, provide appropriate support and take preventive measures to protect people from domestic violence. In addition, Government Resolution No. 853 of 19 August 2009 approved the Plan of Measures Implementing the National Strategy on Combating Violence against Women, 2010-2012. With a view to enhancing the legal framework in this area, there are plans to improve access to legal assistance for victims of domestic violence.

Non-Discrimination (Employment)

► The Law amending the Law on Equal Treatment (No. X-1602 of 17 June 2008) requires employers to make reasonable accommodation for persons with disabilities. Article 7 of the Law states that when applying equal treatment employers must "take appropriate measures to provide conditions for disabled people to obtain work, to work, to pursue a career or to study, including adapting premises, provided that the employer would not be disproportionately burdened with duties as a result.

Employment

► Repeal of the Act on the evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the present activities of former permanent employees of the organisation entailed restrictions which restricted the professional activities of former employees.

Families

► Adoption on 26 May 2011 of the Law on Protection against Domestic Violence, which defines the concept of domestic violence, establishes the rights and liabilities of subjects of domestic violence, implements preventive and protective measures and provides for assistance in the event of domestic violence.

APPENDIX III

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

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

The Committee of Ministers of the Council of Europe,

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

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

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

Emphasising that human rights must be enjoyed without discrimination;

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

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

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

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