



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

April 2016

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

ARMENIA

Meeting in Yerevan on 30 September 2015

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I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers in December 2002 decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "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 examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned, with a view to securing a higher level of acceptance. 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 Governments tend to overlook that the selective acceptance of the provisions of the Charter should be a temporary phenomenon.

Armenia ratified the revised European Social Charter on 21 January 2004 and accepted 67 of the 98 paragraphs. Armenia has neither signed nor ratified the Additional Protocol providing for a system of collective complaints.

The procedure provided by Article 22 of the 1961 Charter was applied for the first time in 2009, in the context of a meeting between members of the European Committee of Social Rights and the Armenian authorities.

The second meeting on the non-accepted provisions of the European Social Charter with the Armenian Government was organized jointly by the Department of the European Social Charter and the Ministry of Labour and Social Affairs of the Republic of Armenia on 30 September 2015.

The Committee delegation consisted of Lauri Leppik (General Rapporteur) and François Vandamme. The Secretariat was represented by Henrik Kristensen and Nino Chitashvili.

About 25 participants representing a broad selection of Armenian ministries and agencies as well as the main organisations of workers and employers were present. The meeting was chaired by First Deputy Minister of Labour and Social Affairs, Arayik Petrosian.

The information provided and the discussions conducted during the meeting confirmed that there are no major obstacles in law and in practice to Armenia's acceptance of several additional provisions of the Charter, including provisions such as Articles 9, 10(§§1,3 and 4), 13§3, 14§1 and 15§1. As regards Articles 4§1, 11§1, the Committee considered that the current legal situation and practice in Armenia may still raise a problem of conformity. As regards other provisions examined at the meeting, such as Articles 10§5, 11§2 and 11§3, the Committee considered that further information is necessary to assess the situation properly.

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

The Committee would also like to encourage Armenia to accept the collective complaints procedure. In this respect, the Committee refers to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix III).

The next examination of the provisions not accepted by Armenia will take place in 2019.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 9 – Vocational guidance

Situation in Armenia

The Government reported about some of the problems and challenges to the system of vocational education. On the legislative side, the terms 'professional orientation' and 'career guidance' lacked precise definition and there were no training and orientation programmes in practice. Besides, the non-existence of a unified system of lifelong learning, lack of professionals to provide services and no education-labour market link has led to high level of unemployment. Moreover, no career centres existed, but rather an agency providing internships and without an individualised approach.

The function of vocational guidance and career services for young people, jobseekers and the unemployed is performed by the State Employment Agency's regional centres and is limited to just providing information about the labour market and to referring to employment state projects. The Youth Professional Orientation Centre was created in 2007 with the primary goal of supporting the young people. There are 1,500-3,000 beneficiaries per year.

To address these challenges, the Concept Paper for Professional Orientation 2013-2015 was prepared setting out the main methods and ways to overcome these problems.

To implement the Concept Paper the 2013-2015 Action Plan was prepared setting as its main goal to create opportunities for free and conscious choice of professional activity, mostly corresponding to person's interests, needs, characteristics as well as to labour market's demand for qualified and competitive workforce. The main objectives are to ensure vocational guidance for all social groups, ensure the linkage between education, life and work, to create and develop career centres and to introduce career management training programmes. The need for specialists with necessary knowledge in social pedagogy, psychology, professional and the labour market has been underlined.

The Employment Strategy 2013-2018 also emphasises that the introduction of a vocational guidance system, which would be accessible from the beginning of the general education and in all stages of employment and professional career, is essential and an important precondition to ensure the linkage between the labour market and educational system.

According to the Government, there are solid foundations to further develop the system of vocation guidance and overcome the main challenge, which is the lack of specialists who would work in schools with focus on the individual.

Opinion of the Committee

The Committee provided information on interpretation and case law, underlining that Article 9 implies the setting up and operation of services that assist all persons in solving their problems relating to occupational choice and opportunity, with due regard to individual characteristics.

Such vocational guidance must be provided within the school system and the labour market, addressing in particular school-leavers and job-seekers. It must also be provided free of charge; by qualified and sufficient staff; to a significant number of persons and by aiming and reaching as many people as possible. Equal treatment with regard to vocational

guidance must be afforded to non-nationals of other States Parties lawfully resident or regularly working on the territory, which implies that no length of residence should be required from students or trainees residing before starting training, except where these entered the territory with the sole purpose of attending training.

On this basis and subject to more detailed information on the situation in practice, the Committee takes the view that there are no major obstacles to the acceptance by Armenia of Article 9 of the Charter.

Article 10 – Right to vocational training

Paragraphs 1, 3 and 4 - technical and vocational training; access to higher technical and university education; vocational training and retraining of adult workers and long term unemployed persons

Situation of Armenia

According to the Government, everyone has the right to free education on a competitive basis in the State higher and other vocational educational institutions. The State shall provide financial and other assistance to educational institutions implementing vocational educational programmes and to students thereof.

The Government reported about two State Employment Programmes, which envisage organisation of vocational trainings for the unemployed and jobseekers and providing assistance to the unemployed to acquire skills and work experience. The first programme, entitled 'organisation of vocational training for the unemployed and job seekers' aims at ensuring stable employment by training workers in compliance with the labour market demands and raising their competitiveness. Professional and vocational training is organised for the period of 6 months and retraining for the period of 3 months. A jobseeker involved in professional training is granted a scholarship for the whole period of training. In 2014 1,585 persons were included in the programme and 309 persons in the first quarter of 2015.

As regards the second programme, entitled 'providing assistance to the unemployed to obtain work experience', it aims at ensuring stable employment by assisting the unemployed to re-enter the labour market. The duration of the training is 3 months. In 2014 346 persons were included in the programme and 130 persons during the first quarter of 2015. In the course of the training the following benefits are paid: salary to the unemployed, at the amount defined by the Law on Minimum Monthly Wage. In addition, the specialist organising the training is paid at 20% of his/her previous wage and the employer gets the compensation for income tax and targeted social contributions.

Opinion of the Committee

The Committee provided information on interpretation and case law, underlining that Article 10§1 obliges States to provide or promote the technical and vocational training of all persons, including persons with disabilities, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, solely on the basis of individual aptitude.

States Parties must build bridges between secondary vocational education and university and non-university higher education and introduce mechanisms for the recognition of knowledge and experience acquired in order to achieve a qualification or to gain access to general, technical and university higher education.

Facilities shall be granted to ease access to technical or university higher education, solely on the basis of individual aptitude. This obligation can be achieved by avoiding that registration fees or other educational costs create financial obstacles for some candidates.

Article 10§3 concerns measures designed to make access to vocational training effective in practice. Both employed and unemployed persons, including young unemployed people and self-employed persons, are covered by the provision. As regards employed persons, States Parties are obliged to provide facilities for training and retraining adult workers, so as to fight against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development.

As regards unemployed people, the availability of vocational training is measured by the activation rate, i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in such measures. Article 10§4 concerns re-training and re-integration measures to be taken specifically for long-term unemployed persons.

On the basis of the information at its disposal, the Committee takes the view that with further improvements as regards facilitating access to vocational education and making general secondary education and general higher education qualifications relevant from the perspective of professional integration in the labour market, acceptance by Armenia of Article 10§§1, 3 and 4 of the Charter could be envisaged.

10§5 - Full use of facilities available

Situation in Armenia

According to the authorities, non-nationals enjoy equal treatment and foreigners are also admitted to higher education on a competitive basis.

Opinion of the Committee

The Committee provided information on interpretation and case law, underlining that Article 10§5 concerned complementary measures to make access to vocational training effective in practice.

These concern, among others, reducing or abolishing any fees or charges, ensuring that equal treatment is guaranteed for non-nationals and granting financial assistance in appropriate cases, in particular for vulnerable groups.

The Committee considers that further information on the current legal situation and practice is needed to allow it to properly assess the situation.

Article 15§1 rights of persons with disabilities

Situation of Armenia

According to the Government, an inclusive system of education is in place. The right to education for everyone is stipulated by Article 39 of the Constitution, including the secondary education which is free of charge in the state educational institutions. Children with disabilities have the right to education in the general system.

As regards the necessary conditions for inclusive education, there is a provision in the law in this respect and in practice some measures have been implemented, such as pilot projects, which have resulted in a growing number of children in inclusive education. Reforms are being implemented slowly but steadily. The Government is aware that just placing a child with disability in an ordinary school is not a sufficient measure taken alone.

The new Law on Education of Children with Disabilities defines the concept of disability. In all general schools there are children with disabilities (more than 3000 children). To accommodate such children in the system, schools receive financial transfers. The Government emphasised that special teams, special teaching staff should also be organised in schools to better meet the needs of children with disabilities in the mainstream education.

As regards special schools, in 1999 there were 52 special schools and today there are only 23. Recognition of needs is essential. The goal is to achieve universality in 2025 of the inclusive general education system. New Action Plan will be prepared to implement the new law. Vocational schools for children with cognitive problems are maintained. Inclusion is done at two levels – general inclusive education and linked with vocational training and guidance.

In 2005 by adopting the Law on education of persons with special educational needs the concept of inclusive education was defined. According to this law, inclusive education can be implemented in general as well as in specialised schools with special programmes, by the parents' choice. The State provides necessary conditions for persons with special educational needs to ensure their social inclusion. According to the Government Decree No 1265-N, a child with special educational needs, studying in general school, receives increased funding.

Since 2001 general schools have been implementing inclusive education for children with disabilities. Inclusive education is implemented in 181 general schools, where about 300 children with special needs are studying.

In 2007 the Medical, Psychological and Pedagogical Assessment Centre of Yerevan was established. The primary goal is to detect children without special educational needs and to bring them out from special schools. As a result there are now only 2,200 children studying in special schools as compared to 5000 in 2007.

The Law on Amendment and Restatements to the Law on General Education was adopted in 2014, enabling a transition to overall inclusive education in general education, using a three-tier reaction system to child's educational needs.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, emphasising that Article 15§1 implies to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private.

As regards the education of disabled children and adolescents, priority should be given to mainstream schools, whereby provision of the human assistance needed for the school career is required. States Parties must take measures in order to enable integration and guarantee that both mainstream and special schools ensure adequate teaching. They must also demonstrate that tangible progress is being made in setting up inclusive and adapted education systems.

Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age. It thus covers both children and adults who face particular disadvantages in education. The existence of non-discrimination legislation is a necessary and important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes.

On this basis, the Committee takes the view that there are no major obstacles to the acceptance by Armenia of Article 15§1 of the Charter.

Article 4§1 – fair remuneration

Situation of Armenia

According to the Government, the objective in the law is already very ambitious – the minimum wage, pension and allowances should all be based on the minimum survival budget. There are different methodologies to establish the minimum survival budget, one of which also includes the cash value of medical assistance.

However, expert opinions have shown that if a correlation is made between the minimum wage and the consumer basket, there is a risk of inflation. Moreover, according to the representatives of employers, many SMEs would be forced to shut down as they will not be able to pay wages.

The Government has introduced a programme of gradual raise of wages from 2012. The expected results have been defined in the mid-term expenditure programme of the Government as well as in 2014-2015 Strategic Programme of Development, approved by the Decree No 442-N of the Government of 27 March 2014.

The aim for 2014 was to ensure that the minimum wage exceeds 2/3rds of the median wage, while for 2016 the expected result was to achieve that the minimum wage is higher than the cost of the consumer basket. For 2017 the aim was that the minimum wage amounts to 40% of the average wage.

As regards the results, in 2013 the minimum wage exceeded the poverty line (114%). In the first half of 2015 the minimum wage represented 37% of the average wage. In the second half of 2015 the minimum wage was higher than the value of the consumer basket.

To ensure the workers' right to decent work, the National collective agreement signed by the social partners defines provisions by which the parties are obliged to promote the fixing of the minimum wage in compliance with international standards.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, stating that under Article 4§1, the right to a fair remuneration implies the recognition of remuneration such as will give workers and their families a decent standard of living.

The concept of "decent standard of living" goes beyond merely material basic needs and includes resources necessary to participate in cultural, educational and social activities. The concept of "remuneration" relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done, including bonuses and gratuities. To be considered "fair", the minimum or lowest remuneration or wage paid in the labour market, net of tax deductions and social security contributions must not fall below 60% of the net average wage. If the lowest wage does not satisfy that 60% threshold, but does not fall very far below, it is for the State Party to establish that this wage is sufficient to give the worker a decent standard of living. In extreme cases, i.e. where the lowest wage is less than half the average wage, the situation is held to be in breach of Charter. Providing for a lower minimum wage to young workers is not contrary to the Charter if it serves a legitimate purpose of employment policy and is proportionate to achieve that aim.

The Committee takes the view that the current legal situation and practice in Armenia still raises a problem of conformity with Article 4§1, especially noting that the minimum wage only represented 39% of the average wage in 2015.

Article 11 – right to protection of health

Paragraph 1 - Removal of the causes of ill-health

Situation of Armenia

The Government reported that the Strategy for Quality Assurance of Hospital Services, was approved on 26 February 2015. Its objectives are the elaboration of standards and clinical guidelines for treatment of different diseases, increasing the motivation and qualification of medical workers and more effective prevention of infections, improvement of safety, more effective use of healthcare resources and the improvement of the health status of population.

In accordance with the Decree of the Ministry of Health of 16 January 2014 on approving the procedure for quality control, commissions for quality control have been established in medical institutions providing outpatient care and services. The Commissions report to the Ministry of Health.

The Strategy for Mental Health Care 2014-2019 sets out the following objectives: conformity of legislation with international obligations, description of mental health professions, modernisation of vocational education programmes, development of continuous education of mental health professionals, awareness raising on mental health issues, improvement of quality and affordability of mental health services, transition from institutional to community-based support system.

The Child Health State Certificate was introduced in 2011, the financing of inpatient care for children was increased twice and the main indicators of children's health have improved. The maternal mortality (per 100,000 live born infants) has gone down from 43,2 in 1999-2001 to 18,4 in 2014. Infant mortality has gone down from 18,9 in 1990-1992 to 8,7 in 2014.

As regards access to health, according to the Government, there still are problems with treating adults in emergency situations while the situation is better for children. Chronic and acute conditions are covered and there is a list of such diseases and lack of funding is a major problem. As regards out-of-pocket payments, waiting lists and cost of medicine, in reply to the Committee's question the Government reported that children are given a priority. For adult patients, the budget is scarce and the funding is not enough to cover the costs.

Opinion of the Committee

Under Article 11, health means physical and mental well-being. States Parties must ensure the best possible state of health for the population according to existing knowledge. Health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action. The main indicators are life expectancy and the principal causes of death. These indicators must show an improvement and not be too far behind the European average.

Infant and maternal mortality are good indicators of how well a particular country's overall health system is operating. A recurring problem of non-conformity under this provision are the high infant and maternal mortality rates in several countries, which when examined together with other basic health indicators, point to weaknesses in the health system.

The health care system must be accessible to everyone. The right of access to care requires that the cost of health care should be borne, at least in part, by the community as a whole.

The cost of health care must not represent an excessively heavy burden for the individual. Out-of-pocket payments should not be the main source of funding of the health system. Steps must be taken to reduce the financial burden on patients from the most disadvantaged sections of the community;

The Committee takes the view that the current legal situation and practice in Armenia still raises a problem of conformity with Article 11§1 of the Charter, in particular as regards access to health for everyone.

11§2 - Advisory and educational facilities

Situation of Armenia

According to the Government, the subject Healthy Lifestyle was introduced in public schools for 10 and 11 grades at the initiative of the Ministry of Education and Science.

Annual medical examination of school-aged children in polyclinic and outpatient clinics is organised as well as annual screenings at school for vision, hearing, and postural disorders. Primary dental care/prevention at school is organised for 6-12 years olds.

Opinion of the Committee

Public health policy must pursue the promotion of public health. National rules must provide for informing the public, education and participation. States Parties must demonstrate through concrete measures that they implement a public health education policy in favour of the general population and the population groups affected by specific problems.

Informing the public, particularly through awareness-raising campaigns, must be a public health priority. The precise extent of these activities may vary according to the nature of the public health problems in the countries concerned. Measures should be introduced to prevent activities that are damaging to health, such as smoking, alcohol and drugs, and to develop a sense of individual responsibility, including such aspects as a healthy diet, sexuality and the environment.

Health education must be carried out throughout school life and form part of school curricula. After the family, school is the most appropriate setting for health education because the general purpose of education is to impart the knowledge and skills necessary for life.

Sexual and reproductive health education is regarded as a process aimed at developing the capacity of children and young people to understand their sexuality in its biological, psychological, socio-cultural and reproductive dimensions which will enable them to make responsible decisions with regard to sexual and reproductive health behaviour.

There must be free and regular consultation and screening for pregnant women and children throughout the country. Free medical checks must be carried out throughout the period of schooling.

The Committee considers that to allow it to properly assess the situation, further information on the current legal situation and practice is needed, such as on awareness-raising campaigns, reproductive education in schools and regular consultation and screening for women and children.

Article 11§3 - Prevention of diseases and accidents

The Government did not provide any information regarding this provision.

Opinion of the Committee

The guarantee of a healthy environment requires that States Parties develop and regularly update sufficiently comprehensive environmental legislation and regulations.

Article 11 entails a policy that bans the use, production and sale of asbestos and products containing it. There must also be legislation requiring the owners of residential property and public buildings to search for any asbestos and where appropriate remove it, and placing obligations on enterprises concerning waste disposal.

States Parties must establish national food hygiene standards with legal force that take account of relevant scientific data, establish and maintain machinery for monitoring compliance with these standards throughout the food chain, develop, implement and regularly update systematic prevention measures, particularly through labeling, and monitor the occurrence of food-borne diseases.

Anti-smoking measures are particularly relevant for the compliance with Article 11 since smoking is a major cause of avoidable death in developed countries. This approach also applies *mutatis mutandis* to anti-alcoholism and drug addiction measures.

The Committee considers that further information on the current legal situation and practice of Armenia is needed to allow it to properly assess the situation.

Articles 13§3 and 14§1 – right to social and medical assistance and right to social welfare services

Situation of Armenia

The Government has reported that the aim of social services is to help persons/families come out of the difficult situations of life which they cannot manage on their own. Non-Governmental Organisations are also very active in providing these services. There is a one-stop shop for social services, but services are not well organised at local level. Further improvement is also necessary of social workers institutions.

Social Services cover day and night care for elderly people, care at home for single elderly people, services for persons with disabilities, as well as the protection of victims of domestic violence. There were 1,145 beneficiaries of day and night care services in 2014 and 1,265 in 2015, and 5,700 beneficiaries of care in domestic conditions.

Social services face the following challenges: improvement of quality, the need for new, integrated services to reduce bureaucracy, the need for stable assessment and monitoring system.

According to the Government, the implementation of the principle of ‘single window’ at local level is very important, including the integration of cash benefits to be provided under the single body as well as the development and implementation of local social programmes. Integration at local level is equally important, development of interprofessional,

multiprofessional activities, productive provision of integrated social services. Improvement of the ways of coordination has also been highlighted, such as information exchange and joint activities.

Opinion of the Committee

The Committee provided information on aspects of interpretation and case law. In respect of Article 13§3, the right to adequate assistance obliges States to ensure that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want.

Article 13§3 is more specific on free of charge services offering advice and personal assistance specifically targeted at persons without adequate resources or at risk of becoming so.

Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population. Social services must therefore be available to all categories of the population who are likely to need them. It has identified the following groups: children, the elderly, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts, battered women and former detainees.

The list is not exhaustive as the right to social welfare services must be open to all individuals and groups in the community.

Social services may be provided subject to fees, fixed or variable, but they must not be so high as to prevent the effective access of these services. For persons lacking adequate financial resources in the terms of Article 13§1 such services should be provided free of charge.

In the light of the current case law and the current legal situation and practice, while taking into account the fact that Armenia has accepted Article 13§1 and 14§2 of the Charter, the Committee considers that with further improvements as regards the quality and accessibility of services, acceptance by Armenia of Articles 13§3 and 14§1 of the Charter could be envisaged.

Collective Complaints Procedure

An exchange of views was held concerning Armenia's acceptance of the Collective Complaints Procedure. The importance of this procedure was highlighted, both for strengthening the respect of social rights as well as promoting the dialogue between the Government and civil society organisations.

The authorities underlined the need to further strengthen civil society by supporting and enabling them to take their grievances to the international level. The authorities took the view, however, that a closer examination of the experiences with the complaints procedure, including an analysis of why only a limited number of States had accepted the procedure, before taking a decision in this regard, would be necessary

APPENDIX I



DRAFT PROGRAMME MEETING ON THE NON ACCEPTED PROVISIONS OF THE EUROPEAN SOCIAL CHARTER

organised by

Council of Europe

and

Ministry of Labour and Social Affairs

Yerevan, 30 September 2015

Venue: Erebuni Plaza Business Center, Yerevan

Working languages: Armenian and English

The meeting is organised in the framework of the procedure provided for by Article 22 of the 1961 Charter on “non-accepted provisions”. It will consist of an exchange of views and information on the provisions not accepted by Armenia with a view to evaluating the prospects for acceptance of additional provisions.

The overall objective is to ensure the effectiveness of social human rights in Armenia.

10:00 Opening of the meeting

Mr. Arayik Petrosyan – First Deputy Minister, Ministry of Labour and Social Affairs of Armenia

Mr Henrik Kristensen, Deputy Head of the Department of the European Social Charter

Ms Natalia Voutova, Head of the Council of Europe Office in Armenia

10:15 Exchange of views on the provisions of the European Social Charter not yet accepted by Armenia

Provisions relating to employment, training and equal opportunities

Article 9 (vocational guidance), Article 10 (vocational training), Article 15§1 (rights of persons with disabilities)

The situation in law and in practice in Armenia

Ministry of Labour and Social Affairs

Ms. Haikuhi Gevorgyan, Director of Methodological Center for Professional Orientation (Article 9)

Ms. Ruzanna Pepanyan, Head of Employment Division (Article 10)

Representative of the Ministry of Education and Science (Article 15§1)

The provisions and related case-law

Mr François Vandamme, member of the European Committee of Social Rights, former Director of International Affairs, Federal Public Employment Service, Labour and Social Dialogue, Brussels, Belgium

Ms Nino Chitashvili, Administrator, Department of the European Social Charter
Discussion

11:30 Coffee break

11:45 Provisions relating to labour rights

Article 4§1 (fair remuneration),

The situation in law and in practice in Armenia

Ministry of Labour and Social Affairs

Ms. Armine Matosyan, Head of Wage Policy Division

The provisions and related case-law

Mr Henrik Kristensen, Deputy Head of the Department of the European Social Charter

Discussion

12:30 Lunch break

14.00 Provisions relating to health, social security and social protection

Article 11 (right to health), Article 13§3 (social and medical assistance), Article 14§1(social welfare services)

The situation in law and in practice in Armenia

Representative of the Ministry of Health (Article 11)

Ministry of Labour and Social Affairs

Ms. Astghik Minasyan, Head of Social Assistance Department (Article 13§3 and Article 14§1)

The provisions and related case-law

Mr Lauri Leppik, General Rapporteur, the European Committee of Social Rights. Senior Researcher at the School of Governance, Law and Society, Tallinn University, Estonia

Discussion

16:00 Coffee break

16:30 Exchange of views on the collective complaints procedure and the Turin Process

- a) Significance and development of the collective complaints procedure in the light of the decisions adopted by the European Committee of Social Rights

Mr Lauri Leppik, General Rapporteur, the European Committee of Social Rights. Senior Researcher at the School of Governance, Law and Society, Tallinn University, Estonia

- b) Information on the Turin Process: questions and answers

Mr Henrik Kristensen, Deputy Head of the Department of the European Social Charter

18:00 Closing of the meeting

Ministry of Labour and Social Affairs

Ms Nino Chitashvili, Administrator, Department of the European Social Charter

List of participants

1. Araik Petrosyan, First Deputy Minister of Labour and Social Affairs of the Republic of Armenia
2. Tadevos Avetisyan, Head of Labour and Employment Department of the Ministry of Labour and Social Affairs of RA
3. Naira Avetisyan, Deputy Head of Council of Europe Office in Armenia
4. Armenuhi Tanashyan, Head of Division of Women Issues, deputy Head of Department of Family, Women and Children Issues of the Ministry of Labour and Social Affairs of RA
5. Marine Aghaganyan, Chief Specialist of Development Programmes and Monitoring Department of the Ministry of Education and Science of RA
6. L. Grigoryan, Deputy Head of Legal Department of the Ministry of Education and Science of RA
7. S. Azatyan, Head of Pre-school and School Division of General Education Department of the Ministry of Education and Science of RA
8. Anahit Muradyan, Chief Specialist of Pre-school and School Division of General Education Department of the Ministry of Education and Science of RA

9. Margarit Aleksanyan, Leading Specialist of Methodological Assistance Division of Social Assistance Department of the Ministry of Labour and Social Affairs of RA
10. Astghik Avagyan, Chief Specialist of Benefits Division of Social Assistance Department of the Ministry of Labour and Social Affairs of RA
11. Astghik Arghushyan, Chief Specialist of Methodological Assistance Division of Social Assistance Department of the Ministry of Labour and Social Affairs of RA
12. Astghik Minasyan, head of the Social Assistance Department of the Ministry of Labour and Social Affairs of RA
13. Haykuhi Gevorgyan, Director of Professional Education Methodic Center, the Ministry of Labour and Social Affairs of RA
14. Alla Gevorgyan, Specialist of Educational Guidance Division of Professional Education Methodic Center, the Ministry of Labour and Social Affairs of RA
15. Lilit Poghosyan, Chief Specialist of the International Cooperation Division of International Cooperation and Development Programmes Department of the Ministry of Labour and Social Affairs of RA
16. Anahit Martirosyan, Head of International Cooperation and Development Programmes Department of the Ministry of Labour and Social Affairs of RA
17. Tatevik Vardanyan, National Institute of Labor and Social Research Director Assistant, RA Ministry of Labour and Social Affairs
18. Ruzanna Pepanyan, Head of Employment Division of Labour and Employment Department of the Ministry of Labour and Social Affairs of RA
19. Karine Madoyan, Chief Specialist of Confederation of Trade Unions of Armenia
20. Boris Xaratyan, Deputy of Chairman of Confederation of Trade Unions of Armenia
21. Shushanik Barseghyan, Deputy Chairman of Republican Union of Employers of Armenia
22. Artak Simonyan, Deputy Head of State Employment Agency, RA Ministry of Labour and Social Affairs
23. Mary Gasparyan, leading specialist of International Cooperation Division of International Cooperation and Development Programmes Department, of the Ministry of Labour and Social Affairs of RA
24. Armine Matosyan, Head of Wage Policy Division of Department of Labour and Employment Department of the Ministry of Labour and Social Affairs of RA
25. Varazdat Danielyan, Adviser to the RA Minister of Health
26. Tamara Ghukasyan, RA Ministry of Health
27. Marieta Sargsyan, Junior Specialist of the International Cooperation Division of International Cooperation and Development Programmes Department of the Ministry of Labour and Social Affairs of RA
28. Tatevik Karapetyan, Junior Specialist of Development Programmes Division of International Cooperation and Development Programmes Department, of the Ministry of Labour and Social Affairs of RA
29. Nune Pashayan, RA Ministry of Health

APPENDIX II

Armenia and the European Social Charter —

Signatures, ratifications and accepted provisions

Armenia ratified the revised European Social Charter on 21/01/2004 and has accepted 67 of the 98 paragraphs.

It has not accepted System of Collective Complaints.

The Charter in domestic law

Automatic incorporation into domestic law.

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				

Monitoring the implementation of the European Social Charter ¹

I. Reporting system ²

Reports submitted by Armenia

Between 2006 and 2015, Armenia submitted 9 reports on the application of the Revised Charter.

The 10th report, which should have been submitted by 31/10/2015, should concern the accepted provisions relating to Thematic Group 1 "Employment, training and equal opportunities", namely:

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

In addition, the report should provide 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.

¹ The European Committee of Social Rights ("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-conformity³

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2012

► *Article 15§1 – Right to work – Policy of full employment*

It has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation.

► *Article 15§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- The duration of alternative labour service replacing military service amounts to an excessive restriction on the right to earn one's living in an occupation freely entered upon.
- It has not been established that the exceptions to the prohibition on forced labour are in conformity with the Charter.

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

It has not been established that persons with disabilities are guaranteed effective protection against discrimination in employment.

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

It has not been established that there is legislation ensuring people with disabilities effective protection against discrimination in the fields of housing, transport, telecommunications, culture and leisure activities.

► *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*

The level of fees for residence permits is excessive.

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

- The termination of employment on the sole ground that the person has reached the pensionable age, which is permitted by law, is not justified.
- The maximum compensation for unlawful termination of employment is inadequate.

Thematic Group 2 "Health, social security and social protection" - Conclusions 2013

► *Article 35§1 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that there is an adequate occupational health and safety policy.

(Conclusions 2015)

► *Article 12§1 – Existence of a social security system*

- Personal coverage of medical care is insufficient.
- The minimum level of old age benefit is inadequate.

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

- The level of social assistance paid to a single person without resources is manifestly inadequate and
- Social assistance for elderly people without resources is not adequate. **(Conclusions 2015)**

Thematic Group 3 "Labour rights" - Conclusions 2014

► *Article 25§1 – Right to just conditions of work – Reasonable working time*

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

The daily working time of some categories of workers can be extended to 24 hours.

► *Article 2§5 – Right to just conditions of work – Weekly period of rest*

It has not been established that the right to a weekly rest period may not be forfeited or replaced by financial compensation and that adequate safeguards exist to ensure that workers may not work for more than twelve consecutive days without a rest period.

► *Article 2§6 – Right to just conditions of work – Information on the employment contract*

It has not been established that the right to information on the employment contract is guaranteed.

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

The legislation does not guarantee an increased time off in lieu of remuneration for overtime.

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

- In most cases, no notice period and/or severance pay in lieu thereof is applicable to dismissal or termination of an employment contract.
- With regard to the particular situations in which provision has been made for notice and/or severance pay in lieu thereof, the period and/or amount is not reasonable as regards:
 - dismissal following the liquidation of the company or the change in circumstances, beyond five years of service;
 - dismissal on the ground of the employee's unsuitability for the job, long-term incapacity for work or having reached retirement age;
 - termination of employment contracts following a substantial change in working conditions or when the employee is called up for military service;
 - termination of seasonal or temporary work contracts.

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

- Withdrawing wages entirely for reasons connected with the quality and quantity of production deprives workers and their dependants of any means of subsistence.
- After all authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves and their dependants.

► *Article 5 – Right to a organise*

- It has not been established whether there is adequate protection against discrimination for employees who are trade union members or participate in trade union activities.
- It has not been established that trade union representatives have access to workplaces to carry out their responsibilities.
- The minimum membership requirements set for forming trade unions and employers' organisations are too high.
- The following categories of workers cannot form or join trade unions of their own choosing: employees of the Prosecutor's Office, civilians employed by the police and security service, self-employed workers, those working in liberal professions and the informal sector workers.
- Police officers are prohibited from joining trade unions.

► *Article 6§1 – Right to bargain collectively –*

Minimum membership requirements excessively limit the possibility of trade unions to participate effectively in consultations.

► *Article 6§3 – Right to bargain collectively – Conciliation and arbitration*

It has not been established that mediation/conciliation procedures exist in the public sector.

► *Article 6§4 – Right to bargain collectively – Joint consultation*

- The required majority of workers to call a strike is too high.
- It has not been established that the restrictions on the right to strike in the energy supply services comply with the conditions established by Article G.
- It has not been established that striking workers are protected from dismissal after the strike.

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

It has not been established that:

- The right of workers to take part in the determination and improvement of working conditions and the working environment is effective.
- The right of workers to take part in the determination and improvement of the protection of health and safety is effective.
- Workers' representatives have legal remedies when their right to take part in the determination and improvement of working conditions and the working environment is not respected.
- Sanctions exist for employers who fail to fulfill their obligations under this article.

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

- The protection granted to workers' representatives is not extended for a reasonable period after the end of period of their mandate.
- It has not been established that workers' representatives are granted adequate protection against prejudicial acts other than dismissal.
- It has not been established that facilities granted to workers' representatives are adequate.

Thematic Group 4 "Children, families, migrants" - Conclusions 2015

► *Article 7§1 – Right of children and young persons to protection – Prohibition of employment 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*

- The definition of light work is not sufficiently precise;
- The daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work

► *Article 7§5 – Right of children and young persons to protection – Fair Pay*

The young workers' wages are not fair.

► *Article 7§7 – Right of children and young persons to protection – Paid annual holidays*

Young workers have the option of giving-up the annual holiday for financial compensation.

► *Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers*

- It has not been established that the legislation protects all children below 18 years of age from all forms of sexual exploitation;
- It has not been established that adequate measures are taken to protect and assist street children.

► *Article 8§4 – Right of employed women to protection of maternity – Regulation of night work*

It has not been established that regulations on night work offer sufficient protection for pregnant women, women having recently given birth and women breastfeeding their child.

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

- It has not been established that there is no discrimination between children born within and outside the marriage.
- Not all forms of corporal punishment of children are prohibited in the home.

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

The net enrolment and attendance rates in the secondary education are low.

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

It has not been established that appropriate measures are taken to facilitate the departure, journey and reception of migrant workers.

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

It has not been established that migrant workers enjoy equal rights with respect to membership of trade unions and collective bargaining.

► *Article 19§5 – Right of migrant workers and their families to protection and assistance – Equality regarding taxes and contributions*

It has not been established that no discrimination against migrant workers occurs in relation to employment taxes and contributions.

► *Article 19§6 – Right of migrant workers and their families to protection and assistance – Family reunion* There is no right of review of a decision rejecting an application for family reunion before an independent body.

► *Article 19§67– Right of migrant workers and their families to protection and assistance – Equality regarding legal proceedings*

It has not been established that migrant workers are secured treatment not less favourable than that of Armenian nationals in respect of relevant legal proceedings through the provision of legal aid, interpretation and translation services.

► *Article 19§68– Right of migrant workers and their families to protection and assistance – Guarantees concerning deportation*

It has not been established that migrants lawfully residing in Armenia shall not be expelled unless they endanger national security or offend against public interest or morality.

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

► *Article 19§11 – Right of migrant workers and their families to protection and assistance – Teaching language of host state*

Teaching of the Armenian language is not organised or promoted sufficiently for migrant workers or their adult family members.

► *Article 27§1 – Right of workers with family responsibilities to equal opportunity and treatment – Participation in working life*

It has not been established that childcare services are adequate.

► *Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Participation in working life*

It has not been established that the compensation for unlawful dismissal due to family responsibilities is adequate.

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Article 1§3 - Conclusions 2012
- ▶ Article 20 - Conclusions 2012

Thematic Group 2 "Health, social security and social protection"

Thematic Group 3 "Labour rights"

- ▶ Article 2§4 - Conclusions 2014
- ▶ Article 4§3 - Conclusions 2014
- ▶ Article 6§2 - Conclusions 2014

Thematic Group 4 "Children, families, migrants"

- ▶ Article 7§7 - Conclusions 2015
- ▶ Article 19§3 - Conclusions 2015
- ▶ Article 19§12 - Conclusions 2015

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

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;

Emphasizing that human rights must be enjoyed without discrimination;

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

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

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

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