EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

July 2023

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

ALBANIA

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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 (RESC) should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights (ECSR) 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, five years after ratification of the Revised European Social Charter (hereafter, the Charter) and every five years thereafter, the European Committee of Social Rights (hereafter, the Committee) reviews the non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance, given that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the Article 22 procedure is therefore to review the situation after five years and encourage acceptance of more provisions.

Albania ratified the Revised Charter on 14 November 2002 and accepted 64 out of 98 paragraphs. It has currently not accepted the following 34 numbered articles and paragraphs: Article 9; Article 10§§1-5; Article 12§§1-4; Article 13§§1-4; Article 14§§1-2; Article 15§§1-3; Article 16; Article 17§§1and 2; Article 18§§1-4; Article 23; Article 27§§1-3; Article 30 and Article 31§§1-3.

2. Previous Examinations

The procedure provided for by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between members of the European Committee of Social Rights and the Secretariat and representatives of the Government of Albania in Tirana on 24 and 25 October 2007. Due to the high number of provisions not accepted by Albania, it was also agreed to have the meeting focusing on a selection of these provisions. Accordingly, the meeting dealt only with 22 provisions out of the 34 provisions not accepted by Albania as following: Article 9, Article 10§§1-5, Article 12§§1-4, Article 14§§1 and 2, Article 16, Article 17§§1 and 2, Article 18§§1-4, Article 27§1-3. Following this meeting, the Albanian authorities were invited to send a written report by 30 December 2010 to supplement the information provided at the meeting. Unfortunately, no information was sent.

Following the meeting, the Committee considered that the following articles could be accepted with no major obstacles: Article 9, Article 10§§1-5, Article 18§§1-4, Article 27§§1-3, pending more precise information on the issues covered by Articles 10 and 18.
Following the second and the third examinations, the Committee considered that the following provisions could be accepted by Albania: Article 9, Article 10§§1-5, Article 12§§2 and 3, Article 13§§2-4, Article 14§§1 and 2, Article 17§§1 and 2, Article 18§§1-4, Article 27§§1-3, Article 31§1. It also considered that there were obstacles in law and practice to the acceptance of the following provisions: Article 12§§1, 4, Article 13§§1, Article 15§§1, 2, 3, Article 16, Article 23, Article 30, Article 31§2, 3.

3. Current Examination

The current, fourth examination of non-accepted provisions of the Charter is based on a written procedure. The Government of Albania was invited on 6 October 2021 to submit written information before 31 March 2022. The Government submitted the report on 17 March 2023.

The following seven provisions are not yet accepted by Albania:

- The right to vocational guidance (Article 9)
- The right to vocational training (Article 10§§1-5)
- The right to social security (Article 12§§1-4)
- The right to social and medical assistance (Article 13§§1-4)
- The right to benefit from social services (Article 14§§1-2)
- The right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15§§1-3)
- The right of the family to social, legal and economic protection (Article 16)
- The right of children and young persons to social, legal and economic protection (Article 17§§1-2)
- The right to engage in a gainful occupation in the territory of other States Parties - (Article 18§§1-4)
- The right of elderly persons to social protection (Article 23)
- The right of workers with family responsibilities to equal opportunity and treatment (Article 27§§1-3)
- The right to protection against poverty and social exclusion (Article 30)
- The right to housing - adequate housing (Article 31§§1-3)

In the light of the information provided by the Government, the Committee considers that there does not appear to be obstacles to the acceptance by Albania of Article 9, Article 10§§1 and 3, Article 12§§2 and 3, Article 13§§2 and4, Article 14§§1 -2, Article 17§§1 - 2, Article 18§§1-4, Article 27§§1-3, Article 31§§1-3 of the Charter. Regarding Article 10§§2, 4 and 5, Article 13§3 and Article 23, the Committee considers that the written information provided is not sufficient to allow a proper assessment and consequently it is unable to express its view on the possibility of accepting these provisions by Albania. In respect of Article 12§§1 and 4, Article 13§1, Article 15§§1-3, Article 16 and Article 30 the Committee considers that the remaining obstacles could be overcome by legislative changes and effective implementation of the newly adopted legislation and encourages the Government to take every possible initiative to this end.

The Committee invites Albania to consider accepting additional provisions of the Revised Charter as soon as possible so as to consolidate the role of the Charter in guaranteeing and promoting social rights. Furthermore, the Committee invites Albania to consider accepting the Additional Protocol providing for a system of collective complaints.

The Committee remains at the disposal of the Government for continued and enhanced dialogue on the non-accepted provisions and encourages it to consider acceptance of the non-accepted provisions identified as posing no problems for acceptance.

The factsheet on the provisions of the Revised Charter accepted by Albania appears in Appendix I.

The next examination of the provisions not yet accepted by Albania will take place in 2027.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 9 *The right to vocational guidance*

Situation in Albania

The Government indicates that Law No.15/2019 “On Employment Promotion” establishes the grounds for realising the right to vocational guidance, as provided by Article 9 of the Charter.

Furthermore, it indicates that the main institution responsible for the implementation of vocational guidance is the National Agency on Employment and Skills (NAES), which was set up in 2020 through the reorganisation of the former National Employment Service. NAES has regional and local employment offices whose staff have been extensively trained by means of EU funds to provide career counselling to all interested persons. The service is offered free of charge for jobseekers and employers.

The Government specifies that in the period 2020 – 2021, a number of 78 000 unemployed jobseekers were profiled and equipped with individual employment plans, while in 2022 a number of 23 000 unemployed job seekers benefitted from this service. It also notes that special attention is paid to special groups such as mothers with many children, persons over 50, young people under 18, the long-term unemployed, people living in families below the poverty level, victims of trafficking, people enrolled in financial aid programs, people who lose their jobs as a result of the restructuring/ privatisation of enterprises and institutions, young unemployed mothers, divorced women with social problems, recently returned emigrants with economic problems, recently graduated students without orientation to the labour market, former prison inmates, people with disabilities, Roma, orphans.

The Government indicates that "Law No.15/2019 On Employment Promotion" also covers foreigners staying on a regular basis in the Republic of Albania, in accordance with EU directives on access to employment services for foreign nationals. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

The Committee underlines that the right to vocational guidance must be guaranteed:

- within the school system (information on training and access to training);[1]
- within the labour market (information on vocational training and retraining, career planning, etc). In this framework, the right to vocational guidance must be guaranteed shall address in particular to school-leavers, job-seekers and unemployed persons.[2]

The indicators taken into consideration when assessing vocational guidance are: objectives, organisation, operation, overall expenditure, number of staff and number of beneficiaries.[3]

Vocational guidance must be provided free of charge, by a sufficient number of qualified staff, to a significant number of persons and with an adequate budget, both within the school system and within the labour market.[4]

During times of economic recession vocational guidance is of great importance.[5]

Situations where only 50% of schools offer consistent vocational services are not in conformity with Article 9 of the Charter.[6]

A lack of information on the expenditure and staffing related to vocational guidance services offered to persons with disabilities leads to a finding of non-conformity under Article 9.[7]

[1] Conclusions 2012, Montenegro.
[2] Ibid.
[3] Ibid.
[4] Conclusions 2020, Lithuania
[5] Conclusions IV (1975), Statement of interpretation on Article 9
[6] Conclusions 2020, Lithuania
[7] Conclusions 2020, Azerbaijan

Furthermore, the Committee considers that there are no major obstacles in law and practice to acceptance of Article 9, provided that reliable statistics on the number of beneficiaries and the human and budgetary resources allocated to vocational guidance are regularly gathered and assessed. The Committee recalls that the Government maintained since 2018, when a meeting on non-accepted provisions took place in Tirana, that Albania can accept Article 9 of the Revised European Social Charter.

In light of the above considerations, the Committee invites Albania to consider acceptance of Article 9.

Article 10§1 *The right to vocational training - Technical and vocational training and access to higher technical and university education*

Situation in Albania

The Government indicates that Law No.15/2019 "On Employment Promotion" establishes the grounds for realising the right to vocational training, as provided by Article 10 of the Charter.

The Government indicates that state employment policies include the development of programs to support providers of vocational education and training and cover initial and continuing qualifications. It reports an increase in vocational training in both the public and private sectors, through practical and theoretical courses, as well as direct participation in special work processes.

The Government informs that Law No. 15/2017 "On vocational training" guarantees the right to lifelong vocational training, the possibility to attend induction vocational training, and the right to obtain vocational knowledge, and provides for equal opportunities for all.

A vocational training system is put in place and its facilities are supported in both quantitative and qualitative terms. In addition to public vocational training centres, private vocational training centres have been licensed by the National Licensing Centre.

NAES implements this guideline through its Employment Offices.

Special attention is given to special vulnerable groups identified by Law No.15/2019 "On Employment Promotion".
Vocational training curricula are constantly reviewed by the National Agency for Vocational Education, Training and Qualifications (NAVETQ) to be updated and in line with labour market demands.

The statistics provided by the Government for the years 2020- 2021, reflect a low participation of unemployed jobseekers in vocational training/ employment promotion programs, although this has increased in the last three years from 10.3% to 17.9% of all registered people. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

The right to vocational training must be guaranteed to everyone.[8]

Article 10§1 covers all kind of higher education.[9] In view of the evolution of national systems, which tend to blur the boundaries between education and training at all levels and merge them

[8] Conclusions I (1969), Statement of Interpretation on Article 10§1
[9] Conclusions 2003, France

into an approach promoting lifelong learning, the notion of vocational training of Article 10§1 covers: initial training (i.e. general and vocational secondary education), university and non-university higher education, and vocational training organised by other public or private actors (including continuing training, which is dealt with under Article 10§3).[10] University and non-university higher education are considered to be vocational training insofar as they provide students with the knowledge and skills necessary to exercise a profession.[11]

At a time of economic recession, the importance of vocational training should be emphasised, and priority should be given to young persons, who face high levels of unemployment.[12]

In order to provide for vocational training States Parties must:

- ensure general and vocational secondary education, university and non-university higher education, as well as apprenticeships and continuing education;[13]
- build bridges between secondary vocational education and university and non-university higher education;[14]
- introduce mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;[15]
- take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market.[16]

The main indicators of compliance with Article 10§1 include: the existence of the education and training system; that system's total capacity (in particular, the ratio between training places and candidates); the total spending on education and training as a percentage of the GDP; the completion rate of young people enrolled in vocational training courses and of students enrolled in higher education; the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.[17]

Strategies and measures must be adopted to match the skills acquired through vocational education and training with the demands of the labour market, and in particular in view of technological developments and of globalisation.[18]

Equal treatment with respect to access to vocational training must also be guaranteed to nationals of other States Parties lawfully resident or regularly working on the territory of the State Party concerned in accordance with the Appendix to the Charter.[19] Measures must be taken to integrate migrants and refugees into vocational education and training.[20] Where the law on employment promotion and labour market institutions does not provide for any specific instruments on vocational training or skills development for refugees, the situation is not in conformity with Article 10§1.[21]

The Committee takes notes of the information provided by the Government regarding the legislative and policy measures to organise the system of education and training, so as to

[10] Ibid.
[11] Ibid.
[12] Conclusions IV (1975), Statement of Interpretation on Article 10
[13] Conclusions 2007, Ireland
[14] Conclusions 2016, Russian Federation
[15] Ibid.
[16] Ibid.
[17] Conclusions 2012, Cyprus
[18] Conclusions 2020, Ukraine
[19] Conclusions 2003, Slovenia
[20] Conclusions 2020, Estonia
[21] Conclusions XXII-1 (2020), Poland

match the knowledge and skills acquired through vocational training to labour market requirements. The Committee reiterates its opinion expressed in 2007, 2012 and 2018 and recommends acceptance of Article 10§1 without delay.

Article 10§2 *The right to vocational training – Apprenticeship*

Situation in Albania

The Government does not provide any information in respect of this provision.

In 2019, the Government indicated that an Apprenticeship system was in place, based on a contract between an employment institution and an educational institution (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania").

Opinion of the Committee

"Apprenticeship" means training based on a contract between the young person and the employer, whereas other training arrangements can be based on such a contract but also be school-based vocational training.[22] Apprenticeship must combine theoretical and practical training and close ties must be maintained between training establishments and the working world.[23]

Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; termination of the apprenticeship contract. [24] In addition, the main indicators for assessing compliance with this provision are the existence of the apprenticeship system and other training arrangements for young people, the quality of such training, i.e. the number of apprentices, the total amount of expenditure – both public and private – devoted to these types of training, and a sufficient supply of places to meet all demands.[25]

The compulsory periods of partial experience forming part of the training of students in areas such as medicine, dentistry, law and education, whether in the course of their university studies or after, fall within the scope of Article 10§2.[26]

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals on the basis of the conditions mentioned under Article 10§1.[27] This implies that no length of residence is required from students and trainees residing in any capacity, or having the right to reside due to their ties with persons lawfully residing, on the territory of the Party concerned before starting training.[28] This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.[29] With respect to access to training, the length of residence or employment requirements and/or the application of the reciprocity clause are not in conformity with the Charter.[30]

[22] Conclusions XIX-1 (2008), Slovak Republic
[23] Conclusions XVI-2 (2003), Malta
[24] Ibid.
[25] Conclusions 2020, Georgia
[26] Conclusions III (1973), Statement of Interpretation on Article 10§2
[27] Conclusions 2003, Slovenia
[28] Ibid.
[29] Ibid.
[30] Ibid.

In the light of the information at its disposal, the Committee considers that it needs further information on the number of apprentices, the amount of expenditure devoted to it and the availability of places so to assess if the existent system of apprenticeship is effective in practice. The Committee invites Albania to give consideration of this provision with a view to its possible acceptance in the near future.

Article 10§3 *The right to vocational training – Vocational training and retraining of adult workers*

Situation in Albania

The Government indicates that employed and unemployed persons have access to vocational training. Public professional training courses are also offered in the afternoon, so that all those interested, including adult workers, have the opportunity to improve their skills or acquire new ones. In addition, vocational training curricula are constantly reviewed by NAVETQ and updated according to labour market demands.

The Government informs that new vocational training curricula have been introduced in 2021, 2022 and 2023, including "Digital Competence" (in accordance with the EU Digital Competencies Framework 2.0).

The Government indicates that vocational training also targets the self-employed. The statistics provided for the unemployed persons in vocational training show a low participation rate. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

The right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people.[31] Self-employed persons are also covered by this provision.[32]

For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups (such as women), the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.[33]

As regards unemployed people, vocational training must be available to them.[34] 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 active measures – is used to assess the impact of the States Parties' policies.[35]

In addition, the following aspects are taken into account:

- the existence of legislation on individual leave for training and its characteristics, in particular the length, the remuneration, and the initiative to take it;[36]

[31] Conclusions 2012, Serbia
[32] Ibid.
[33] Ibid.
[34] Conclusions XIX-1 (2008), Hungary
[35] Conclusions 2012, Serbia
[36] Ibid.

- the sharing of the burden of the cost of vocational training among public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households as regards continuing training.[37]

In the light of the information at its disposal, the Committee considers that the situation in Albania is in line with the requirements of the Charter and Article 10§3 can be accepted without delay.

Article 10§4 *The right to vocational training – Long term unemployed persons*

Situation in Albania

Information provided by the Government indicates that the legislative and policy framework covers retraining and reintegration measures for the long-term unemployed, including long-term unemployed youth. The Government also informs about the new curricula on "Digital competence" and "Fruit and vegetable processor" introduced in 2021.

In addition, with EU-funding support, the National Agency for Employment and Skills (NAES) implemented in 2021-2022 a program targeting the long-term unemployed, who benefitted from digital literacy/ digital competence training and protocol treatment to integrate into the labour market. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

In accordance with Article 10§4, States Parties must fight long-term unemployment through retraining and reintegration measures.[38] A person who has been without work for 12 months or more is long-term unemployed.[39]

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.[40]

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals.[41]

In the light of the information at its disposal, the Committee considers that it needs further information on the share of the long-term unemployed in vocational training compared to their total number and on the impact of training measures on reducing long-term unemployment demonstrate that the effective implementation in practice. The Committee invites Albania to give consideration of this provision with a view to its possible acceptance in the near future.

Article 10§5 *The right to vocational training - Full use of facilities available*

Situation in Albania

The Government indicates that employment promotion programs are implemented through employment offices to support employers in creating and retaining jobs, and to provide job placement to jobseekers. Moreover, it indicates that the support from the state is ensured

[37] Ibid.
[38] Conclusions 2003, Italy
[39] Ibid.
[40] Conclusions 2020, Cyprus
[41] Conclusions 2020, Ukraine

through subsidies, and by compensating a certain percentage of the costs for the compulsory social insurance.

Vocational training provided under the employment promotion program is offered free of charge to unemployed jobseekers when delivered through public Vocational Employment Training Centres. The objective for 2023 is to reach 2200 beneficiaries of the "Digital competencies" curriculum.

The Government also indicates that, at the end of 2022, a new employment promotion program (ALMP) has been developed related to the provision (through outsourcing) of advanced training in the field of ICT and mainly programming. This program will support unemployed jobseekers with 100% fee coverage and other jobseekers with 50% fee coverage. For 2023, it targets 1500 job seekers. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

States Parties must ensure that vocational training, as defined in Article 10§1, is provided free of charge or that fees are progressively reduced.[42] According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned.[43]

States Parties must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit.[44] In any event, assistance should at least be available for those in need and shall be adequate.[45]

The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.[46]

The time spent on supplementary training at the request of the employer must be included in the normal working-hours.[47]

States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships.[48] In particular, the participation of employers' and workers' organisations is required in supervising the effectiveness of training schemes.[49]

In light of the information provided by the Government, the Committee considers that it needs further information in line with the specific indicators provided for above, in particular with regards to the availability of financial assistance and criteria in granting such aid, as well as the number of beneficiaries in different categories of vocational training and apprenticeship schemes, so it can assess the situation in law and practice in Albania with regard to Article 10§5.

Article 12§1 *The right to social security – Establishment and maintenance of a proper social security system*

[42] Conclusions 2020, Malta
[43] Conclusions XVI-2 (2004), United Kingdom
[44] Conclusions XIX-1 (2008), Turkey
[45] Ibid.
[46] Conclusions 2016, Italy ; Conclusions XIV-2 (1998), Ireland
[47] Conclusions 2020, Turkey
[48] Conclusions 2020, Lithuania
[49] Conclusions XIV-2 (1998), United Kingdom

Situation in Albania

The Government states that in 2022, it commissioned a study to assess the compatibility of Albanian legislation with the European Social Security Code (see ILO 2021 "Review of social protection system in Albania: coverage, expenditure, adequacy and financing"). As a result, the study recommended that Albania consider ratifying the European Code of Social Security and Articles 12§§ 2 and 3 of the Charter. The Government informs that Albania has already accepted the social security standards of the ILO Convention 102.

The Government indicates that Albanian legislation on social insurance covers: sickness benefits, maternity benefits for employed and self-employed persons as well as for employers, employment injury, unemployment, old-age, invalidity and survivor benefits for employees and self-employed, as well as for employers. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 12§1 guarantees the right to social security through the establishment and maintenance of a proper social security system. According to the Committee, the scope of this right covers workers and their dependents including the self-employed.[50] States Parties must ensure this right through the existence of a social security system established by legislation and its functioning in practice.[51] Social security, which includes universal schemes as well as specific professional ones, encompasses contributory, non-contributory, and combined benefits related to certain risks.[52] These are benefits granted in the event of risks occurring, but they are not intended to compensate for potential circumstances of need which could result from the risk.[53]

A social security system exists within the meaning of Article 12§1 when it complies with the following criteria:[54]

- number of risks covered: the social security system should cover the traditional risks and therefore provide the following benefits: medical care, sickness benefit, unemployment benefit, old age benefit, employment injury benefit, family benefit, and maternity benefit.[55]
- personal scope: the social security system must cover a significant percentage of the population for the health insurance and family benefit.[56] Health coverage should extend beyond employment relationships.[57] The system should cover a significant percentage of the active population as regards income-replacement benefits, such as sickness, maternity and unemployment benefits, pensions, and work accidents or occupational diseases benefits.[58]
- funding: the social security system must be collectively financed, which means funded by contributions of employers and employees and/or by the state budget. When the system is financed by taxation, its coverage in terms of persons protected should rest on the principle of non-discrimination, without prejudice to the conditions for entitlement (means-test, etc.).[59] The principle of collective funding (i.e. funded by

[50] Conclusions XIV-1 (1998), Ireland
[51] Conclusions 2017, Bosnia and Herzegovina
[52] Conclusions 2017, Georgia
[53] Statement of interpretation on Articles 12 and 13, Conclusions XIII-4
[54] Conclusions XVI-1 (2002), Statement of Interpretation on Article 12
[55] Conclusions 2006, Bulgaria
[56] Conclusions 2017, Georgia
[57] Ibid.
[58] Conclusions 2017, Turkey
[59] Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits, 9 September 2014, §58, citing Conclusions XVIII-1 (2006), The Netherlands, Article 12§1

contributions of employers and employees and/or by the state budget)[60] is a fundamental feature of a social security system as foreseen by Article 12 as it ensures that the burden of risks are spread among the members of the community, including employers, in an equitable and economically appropriate manner and contributes to avoiding discrimination of vulnerable categories of workers.[61]

A social security system must guarantee an effective right to social security with respect to the benefits provided under each branch of that system.[62] Under Article 12§1, when benefits are income-replacement benefits, the level of benefits should be such as to stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income.[63] The Committee calculates this on the basis of the Eurostat at-risk-of-poverty threshold value.[64] However, where an income-replacement benefit stands between 40% and 50% of the median equivalised income, other benefits, where applicable, will also be taken into account.[65] Where the minimum level of an income-replacement benefit falls below 40% of the median equivalised income (or the poverty threshold indicator), its aggregation with other benefits cannot bring the situation into conformity.[66] Unemployment benefits must also meet specific conditions in order to be in conformity with Article 12§1.

There must be a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching their previous skills without losing their unemployment benefits. It amounts to discrimination in the meaning of Article E (health status).[67]

With regard to maternity and family benefits, while the existence of maternity and family branches of the social security system is taken into consideration for the purposes of Article 12§1, the scope and level of those benefits are assessed under Articles 8[68] and 16[69] respectively.[70] Similarly, in its assessment of State Party conformity with Article 12§1, the Committee refers to the assessment done under Article 23, as regards old age benefits, and to the assessment done under Article 13§1, as regards social assistance benefits. In this connection, it has held that a conclusion of non-conformity under Article 23, due to the inadequate level of old-age pensions, would be mentioned under Article 12§1 but would not entail a finding of non-conformity on the same ground.[71]

The Committee considers that it needs further information related to the indicators above to make a proper assessment of the situation in law and practice in Albania with regard to Article 12§1. Moreover, with regard to the material and personal scope of this Article, given that the family benefits branch has not been established, the Committee considers that changes in law and practice are needed in order to bring the situation in line with the Charter. Consequently, it calls on the Government to undertake further efforts to remove the remaining obstacles and consider acceptance of Article 12§1 in the near future.

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[60] Ibid.
[61] Conclusions XVIII-1 (2006), The Netherlands
[62] Conclusions XIII-4 (1996), Statement of Interpretation on Article 12
[63] Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits, 9 September 2014, §63
[64] Conclusions XXI-2 (2017), United Kingdom
[65] Conclusions 2013, Hungary
[66] Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits, 9 September 2014, §§ 59-63
[67] Conclusions 2013, Slovak Republic
[68] Conclusions XX-4 (2015), Statement of interpretation on Article 8§1
[69] Conclusions I (1969); Statement of interpretation on Article 16
[70] Conclusions 2017, General Introduction
[71] Ibid.

Article 12§2 *The right to social security – Social security system at least equal to the conditions for ratification of the European Code of Social Security*

Situation in Albania

The Government indicates that the findings of a recent assessment study on the compatibility of Albanian legislation with the European Code of Social Security (see ILO 2021 "Review of social protection system in Albania: coverage, expenditure, adequacy and financing") led to the recommendation that Albania should consider ratifying the European Code of Social Security and Article 12§2 of the Charter. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 12§2 obliges States Parties to maintain a social security system which is at least equal to that required for the purposes of 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; six of Parts II to X must be accepted certain branches count for more than one: Part II (medical care) counts as two parts, and Part V (old age) counts as three.[72] Each branch sets minimum levels of personal coverage and minimum levels of benefits.[73] In order to examine whether the social security system stands at a level at least equal to that necessary for the ratification of the Code, the Committee has to be provided with thorough information regarding the branches covered, the personal scope and the level of benefits offered.[74] Findings under Article 12§1 are also taken into account.[75]

The Committee recalls that the Committee considered already in 2012 and 2018 that Albania could accept Article 12§§2. In the light of its previous assessment and taking into account the information provided by the Government, the Committee reiterates its invitation to Albania to consider acceptance of Article 12§2 of the Charter.

Article 12§3 *The right to social security – Continuous improve of the social security system*

Situation in Albania

The Government indicates that the findings of a recent assessment study on the compatibility of Albanian legislation with the European Code of Social Security (see ILO 2021 "Review of social protection system in Albania: coverage, expenditure, adequacy and financing") led to the recommendation that Albania should consider ratifying the European Code of Social Security and Article 12§3 of the Charter. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 12§3 requires States Parties to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Article 12§1 and 12§2 have not been met or if these provisions have not been accepted by the state in question.[76]

[72] Conclusions 2013, Serbia
[73] Ibid.
[74] Ibid.
[75] Ibid.
[76] Conclusions 2009, Statement of Interpretation on Article 12§3

The expansion of schemes, protection against new risks, or an increase(s) in the level of benefits are all examples of improvement.[77] A partly restrictive development in the social security system (which can also be described as a 'restriction' or 'limitation' to 'rights in the area of social security') is not automatically in violation of Article 12§3.[78] It should be assessed under Article G of the Revised Charter.[79] The assessment of the situation is based on the following criteria:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.);[80]
- the reasons given for the changes (the aims pursued) and the framework of social and economic policy in which they arise;[81]
- the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration);[82]
- the necessity of the reform;[83]
- the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);[84]
- the results obtained by such changes.[85]

Even if specific restrictive measures are, as such, in conformity with the Charter, their cumulative effect could amount to a violation of Article 12§3 of the Charter. [86]Measures taken in order to consolidate public finances may be considered as a necessary means to ensure the maintenance and sustainability of the social security system. In view of the close relationship between the economy and social rights, the pursuit of economic goals is not incompatible with Article 12§3[87]However, with regard to such consolidation measures, any such measures should not undermine the core framework of a national social security system or deny individuals the opportunity to enjoy the protection it offers against serious social and economic risk.[88] Therefore, any changes to a social security system must maintain in place a sufficiently extensive system of compulsory social security and refrain from excluding entire categories of worker from the social protection offered by this system.[89] They should not transform the social security system into a basic social assistance system.[90] Financial consolidation measures which fail to respect these limits constitute retrogressive steps which cannot be deemed to be in conformity with Article 12§3.[91]

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[77] Conclusions 2013, Georgia
[78] See, e.g., Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece, Complaint No. 76/2012 decision on the merits of 7 December 2012, §70
[79] See, e.g., Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece, Complaint No. 76/2012 decision on the merits of 7 December 2012, §72
[80] Conclusions XVI-1 (2002), Statement of Interpretation on Article12§1, 12§2, 12§3
[81] Conclusions XVI-1 (2002), Statement of Interpretation on Article12§1, 12§2, 12§3
[82] Conclusions XVI-1 (2002), Statement of Interpretation on Article12§1, 12§2, 12§3
[83] Panhellenic Federation of pensioners of the public electricity corporation (POS-DEI) v. Greece, Complaint No. 79/2012, decision on the merits, 7 December 2012, §67, citing General Introduction to Conclusions XIV-1, p. 11
[84] Conclusions XVI-1 (2002), Statement of Interpretation on Article12§1, 12§2, 12§3
[85] Conclusions XVI-1 (2002), Statement of Interpretation on Article12§1, 12§2, 12§3
[86] Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece, Complaint No. 76/2012, decision on the merits of 7 December 2012, §§ 78-83
[87] Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece, Complaint No. 76/2012, decision on the merits of 7 December 2012, § 71
[88] Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece, Complaint No. 76/2012, decision on the merits of 7 December 2012, § 47
[89] General Federation of employees of the national electric power corporation (GENOP-DEI) / Confederation of Greek Civil Servants Trade Unions (ADEDY) v. Greece, Complaint No. 66/2011, decision on 23 May 2012, §47
[90] Finnish Society of Social Rights v. Finland, Complaint No.88/2012, decision on the merits of 9 September 2014, §85
[91] General Federation of employees of the national electric power corporation (GENOP-DEI) / Confederation of Greek Civil Servants Trade Unions (ADEDY) v. Greece, Complaint No. 66/2011, decision on 23 May 2012, §47.

The Committee recalls that the Committee considered already in 2012 and 2018 that Albania could accept Article 12§§3. In the light of its previous assessment and taking into account the information provided by the Government, the Committee reiterates its invitation to Albania to consider acceptance of Article 12§3 of the Charter.

Article 12§4 *The right to social security –Social security benefits of persons moving between the territories of states parties*

Situation in Albania

The Government indicates that the coordination of social security schemes is ensured through a number of bilateral agreements in the field of social protection.

It also indicates that bilateral agreements are effective with the following countries: Turkey, Belgium, Luxembourg, North Macedonia, Hungary, Czech Republic, Germany, Austria, Kosovo*, Canada, and Bulgaria. In addition, it informs that bilateral agreements with Romania and Switzerland are expected to enter into force, as well as that negotiations with Croatia and Montenegro have been concluded. At the same time, negotiations with Italy and Greece are in advanced stages.

Bilateral agreements cover five aspects, as follows: equal treatment, aggregation of completed insurance periods, payment of benefits in the territory of another country, equalisation of territories to avoid overlap of benefits, preservation of acquired rights and rights that are in the process of being granted.

The Government underlines that all agreements concluded by Albania are based on the basic principles of Regulation no. 883/2004 of the European Parliament and of the European Council of 29 April 2004 on the coordination of social protection systems. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 12§4 stipulates the right to social security benefits of persons moving between the territories of states parties.

Personal scope of Article 12§4
In defining the personal scope of Article 12§4, reference must be made to paragraph 1 of the Appendix to the Charter, which reads: "Without prejudice to Article 12§4, the persons covered by Articles 1 to 17 include foreigners only insofar as they are nationals of other States Parties lawfully resident or working regularly within the territory of the State Party concerned". It follows from the Appendix to the Charter that Article 12§4 applies to nationals of other States Parties who no longer reside on the territory concerned but who did reside or worked regularly there in the past and acquired social security rights. The scope of Article 12§4 extends to refugees and stateless persons.[92] Self-employed workers are also covered.[93] Finally, the principle of reciprocity does not apply to Article 12§4.[94]

Material scope of Article 12§4a

[92] Conclusions XIV-1 (1998), Turkey
[93] Conclusions XIV-1 (1998), Turkey
[94] Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4

In order to ensure the right to social security of persons moving between States Parties the following principles must be guaranteed with respect to all existing branches of the social security system:

Right to equal treatment

The guarantee of equal treatment within the meaning of Article 12§4 requires States Parties remove all forms of discrimination from their social security legislation against foreigners in so far as they are nationals of other States.[95] Both direct and indirect discrimination are covered. National legislation cannot reserve a social security benefit to nationals only, or impose extra or more restrictive conditions on foreigners.[96] Nor may national legislation stipulate eligibility criteria for social security benefits which, although they apply without reference to nationality, are harder for foreigners to comply with than nationals, and therefore affect them to a greater degree.[97] However, legislation may require the completion of a period of residence for non-contributory benefits.[98] In this respect, Article 12§4 requires that any such prescribed period of residence is reasonable.[99] A period of five years is considered to be too long. [100]As regards child benefit, a condition that the child concerned resides on the territory of the paying state may be compatible with Article 12§4.[101] The question of whether the residence of a child in the territory is required before child benefits will be paid is examined exclusively under Article 12§4, rather than under Article 16.[102] However since not all countries apply such a system, states applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to conclude within a reasonable period of time bilateral or multilateral agreements with those states which apply a different entitlement principle.[103] Equality of treatment does not necessarily mean that family allowances should be paid at the same amount when the children for whom it is granted are not residents of the same country as the recipient. The level of benefit may in this case be reduced where the cost of living in the child's country of residence is significantly lower, but the reduction must be proportional to the differences of the cost of living in the countries concerned.[104]

Right to retention of accrued rights

Invalidity benefit, old age benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one state according to the eligibility criteria laid down under national legislation are maintained irrespective of whether the beneficiary moves between the territories.[105] Due to the particular nature of unemployment benefit, which is a short-term benefit closely linked to trends in the labour market, Article 12§4 does not require it to be exported.[106] In order to ensure the exportability of benefits, States may choose between bilateral agreements or any other means such as unilateral, legislative or administrative measures.[107]

Material scope of Article 12§4b

Right to maintenance of accruing rights

There should be no disadvantage in terms of accrual of rights for a person who changes their country of employment in instances in which they have not completed the period of

[95] Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4
[96] Ibid.
[97] Ibid.
[98] Conclusions 2004, Lithuania
[99] Ibid
[100] Ibid
[101] Conclusions 2006, Italy
[102] Conclusions XVI-1 (2002), Statement of Interpretation on Articles 12§4 and 16
[103] Conclusions 2006, Italy
[104] Conclusions XIII-4 (1996), Statement of Interpretation on Article 12
[105] Conclusions XVI-1 (2002), Belgium; see also Conclusions XIV-1 (1998), Finland
[106] Conclusions XIV-1 (1998), Norway
[107] Conclusions XIII-4 (1996), Statement of Interpretation on Article 12

employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory. In the case of long-term benefits, the pro–rata approach should also be employed.[108] States may choose between the following means in order to ensure maintenance of accruing rights: multilateral convention, bilateral agreement or, unilateral, legislative or administrative measures.[109] States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.[110]

The Committee notes that Albania has concluded a number of agreements with some of the States Parties to the Charter but there are still a large number of States Parties with which there are no agreements. The Committee considers that further information is necessary to make a correct assessment of the situation in law and in practice in Albania in respect of Article 12§4. In conclusion, the Committee encourages Albania to consider further expanding the number of agreements with the other States Parties to the Charter, and to further align its legislation and practice with the requirements of the Charter, as indicated in the Committee's established case law, thus, to facilitate the acceptance of Article 12§4 in the near future.

Article 13§1 *The right to social and medical assistance – Benefits according to individual need*

Situation in Albania

The Government indicates that an economic aid scheme financed by the state budget is one of the programs for poverty alleviation. Law no. 57/2019 "On social assistance" provides that the application for, verification and granting of financial assistance for families and persons in need is carried out efficiently, transparently, using a proxy means test.

The economic aid scheme can be complemented with additional payments and subsidies to promote education and health care for families with school-age children. In addition, a total of 6% of economic aid funds are transferred to local governments to cover households in poverty, which do not benefit from the proxy means test.

The Government informs that the management of the economic aid scheme involves the Ministry of Health and Social Protection, in charge of drafting policy and legislation, as well as the control of its implementation. Under the Ministry's responsibility, the implementation of the scheme is effectively conducted by the General Directorate of State Social Service, with its Regional Structures, and local government units.

A total number of 64000 families benefit from the economic aid scheme, a level which appears to have increased in recent years. The different household assessment criteria can lead to doubling or even tripling the amount.
The Government indicates that Law No.7870/ 1994 "On social insurance" with subsequent amendments regulates the financing of primary health care services in the country through obligatory contributory insurance for social care. The compulsory health insurance scheme also protects the unemployed, the disabled, and people receiving economic and social assistance. Also, Law 10383 /2011 "On Compulsory Health Insurance" widened the scope of the compulsory health insurance scheme for its non-contributory beneficiaries, providing among other wheelchairs, hearing aids etc.

[108] Conclusions 2009, Finland
[109] Ibid.
[110] Conclusions 2006, Italy

According to Law No. 79/2021 "On foreigners", foreign citizens enjoy the rights provided by the Constitution and the ratified international conventions. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 13§1 provides for the right to social and medical assistance benefits, for which individual need is the main criterion for eligibility, without any requirement of affiliation to a social security scheme aimed to cover a particular risk, or any requirement of professional activity or payment of contributions.[111] Moreover, as Article 13§1 indicates , assistance is given when no social security benefit ensures that the person concerned has sufficient resources or the means to meet the cost of treatment necessary in their state of health.[112] Therefore Article 13§1 provides for the right to benefits, for which individual need is the main criterion for eligibility and which are payable to any person on the sole ground that they are in need.[113]

Reducing or suspending social assistance benefits can only be in conformity with the Charter if it does not deprive the person concerned of their means of subsistence (at least emergency assistance should remain available).[114] Furthermore, it must be possible to appeal against a decision to suspend or reduce assistance.[115] In order to guarantee applicants the effective exercise of their right of appeal, legal aid must be provided.[116]

For the purposes of Article 13§1 social assistance may take the form of benefits in cash or in kind. To assess the adequacy of the level of assistance, social assistance benefits are compared with the poverty threshold.

Article 13§1 does not indicate what form social assistance should take. It may therefore take the form of benefits in cash or in kind. The Committee has observed that "an income guarantee has been established in most States Parties",[117] but has not in theory made the introduction of an income guarantee system a condition of conformity with Article 13§1.

As regards medical assistance, everyone who lacks adequate resources must be able to obtain free of charge, in the event of sickness, the care necessitated by their condition.[118] Furthermore, the right to medical assistance should not be confined to emergency situations.[119]

As regards the level of assistance, the Committee considers it appropriate where the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold in the above sense.[120] (The poverty threshold h is set at 50% of the median equivalised disposable income and calculated on the basis on the Eurostat at-risk-of-poverty threshold).[121] In conducting this assessment, the level of medical

[111] Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13
[112] Ibid.
[113] Conclusions 2013, Bosnia and Herzegovina
[114] Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§1; Conclusions 2006; 2009 Estonia
[115] Conclusions 2006, Estonia
[116] Conclusions XVI-1 (2003), Ireland
[117] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13§1
[118] European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008, §44
[119] Conclusions 2009, Armenia
[120] Finnish Society of Social Rights v. Finland, Complaint No 88/2012, decision on the merits of 9 September 2014, §113, citing Conclusions 2004, Lithuania
[121] Conclusions XIX-2 (2009), Latvia

assistance is also taken into account.[122] Social assistance must be provided for as long as the situation of need persists and cannot therefore be subject to time-limits.[123]

Article 13§1 also provides for the right to emergency social and medical assistance to foreigners in an irregular situation, in a limited and exceptional way.[124] It is the same type of emergency social and medical assistance applicable under Article 13§4, to foreigners who are not resident.[125]

In light of the information provided by the Government, the Committee considers that the legislation in Albania is in line with the requirements of Article13§1 of the Charter. However, according to Eurostat, the proportion of population in risk of poverty after transfers remains high at about 22%. Therefore, the Committee encourages Albania to undertake further efforts to remove the remaining obstacles to a possible acceptance of Article 13§1.

Article 13§2 *The right to social and medical assistance - Political and social rights*

Situation in Albania

The Government indicates that in Law no. 57/2019 "On social assistance", the exclusion criteria have been removed, and the selection of beneficiaries is done by proxy means test, in a transparent manner.

Also, Law No. 121/2016 on "Social Care Services" stipulates that the social protection of beneficiaries is based on the principles of respecting the best interests of users in the exercise of social and respecting human rights, the integrity of the beneficiary, the prevention of institutionalisation, the availability of services, and non-discrimination, with the aim to improve the quality of life and achieve social inclusion. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Under Article 13§2, persons receiving assistance must not suffer any diminution of their political or social rights as a result. Beneficiaries of social or medical assistance must enjoy effective protection against discriminatory measures, particularly with regard to their access to employment and public services.[126]

Based on the information at its disposal, and considering its previous opinion in 2007, 2012, 2019, the Committee encourages Albania to accept Article 13§2 without delay.

Article 13§3 *The right to social and medical assistance - Advice and personal assistance services*

Situation in Albania

The Government indicates that the social services system is regulated by Law No.121/2016 "On Social Care Services". Furthermore, it informs that the social care services have been reformed with the aim of improving the quality of life of the social protection beneficiaries, as well as empowering them for an independent and productive life.

[122] Conclusions 2009, Lithuania
[123] European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 48/2008, decision on the merits of 18 February 2009, §39
[124] Conclusions 2013, Statement of Interpretation on Article 13§1 and 13§4
[125] Conclusions XXI-2 (2017), Spain
[126] Conclusions XVI-2 (2004), Hungary

Under the law, “social care services” are understood as an integrated and organised system of benefits and facilities, which are provided by practitioners in the respective fields of public or non-public subjects, in order to ensure the well-being, independence and social inclusion of individuals and families in need of social care.

Beneficiaries of social services are: i. children and young adults in conflict with the law, as well as those who enjoy international protection upon the decision of the authority responsible for asylum and refugees in the Republic of Albania; ii. adults who have social problems, victims of violence, victims of trafficking, and established drug and alcohol addiction; iii. the elderly people in need; iv. persons with disabilities; and v. pregnant girls or single parents of a child up to one year old.

Pursuant to Article 8 of the Law, social care services include support for community life, counselling-therapeutic and social-educational services, accommodation, emergency interventions and other services. (see for further details “The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania”)

Opinion of the Committee

Article 13§3 concerns free of charge services offering advice and personal assistance specifically addressed to persons without adequate resources or at risk of poverty.[127]

Nationals of States Parties working regularly or residing legally within the territory of another State Party must have access to advice and personal help offered by social services on the same conditions as nationals.[128]

In the light of the information provided by the Government, the Committee considers that the situation in law is in line with the requirements under Article 13§3. However, the Committee considers that it needs further information regarding the effectiveness of the social care services, in particular statistical data with regards to the number, qualifications and duties of the staff employed, funding provided for those services and the adequacy of the material on the one hand and the number of users on the other hand.

Article 13§4 *The right to social and medical assistance - Emergency medical and social assistance for persons lawfully staying but not residing in a state party*

Situation in Albania

The Government indicates that, according to Law No. 79/2021 “On foreigners”, foreign citizens enjoy the rights provided by the Constitution and the ratified international conventions. Article 5 of this law provides that, when making decisions regarding foreigners, the responsible authorities apply the provisions of this law in accordance with the basic rights and freedoms provided for by the Constitution (Article 5, points 1 and 2 of Law No. 79/2021). (see for further details “The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania”)

Opinion of the Committee

Article 13§4 grants non-resident foreign nationals an entitlement to emergency social and medical assistance.

[127] Conclusions 2013, Bosnia and Herzegovina
[128] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

Under Article 13§4 States Parties are required to provide non-resident foreigners without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need (without interpreting too narrowly the "urgency" and "seriousness" criteria).[129] States Parties are not required to apply the guaranteed income arrangements under their social protection systems.[130]The provision of free emergency medical care must be governed by the individual's particular state of health.[131] Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.[132]

Furthermore, emergency social assistance should be supported by a right to appeal to an independent body. There must be a functioning appeal mechanism before an independent judicial body in order to determine the proper administration of shelter distribution. This right must also be effective in practice.[133]

In the light of the information provided by the Government, and considering its previous assessment from 2012 and 2018, the Committee encourages Albania to consider acceptance of Article 13§4 in the near future.

Article 14§1 *The right to benefit from social services - Promotion or provision of social services*

Situation in Albania

The Government indicates that the social care reform involved legislative changes as well as changes in practice.

Detailed information is provided regarding Law No. 12/2016 "On Social Care Services" and subsequent secondary legislation for its implementation.

The law establishes social assistance and social services for individuals and social groups in need who are unable to provide for their basic life necessities, develop their personal skills and abilities, and preserve their integrity, due to limited economic, physical, psychological and social circumstances.

Based on Article 3, para. 1 of the law, "social care services" means an integrated and organised system of benefits and facilities, which are provided by professionals in the respective fields of public or non-public subjects, in order to ensure the well-being, independence and social inclusion of individuals and families in need of social care.

Social services include in particular information and counselling, advice, rehabilitation support, home care services (assistance in running the household, personal hygiene, social support, meal delivery), residential care, and emergency social care (shelters) and other forms of support such as childcare, childminding, domestic violence, family mediation, adoption, fostering and residential childcare, services relating to child abuse, and services for the elderly provided by social workers within the needs assessment and case referral structures of local government units.

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[129] Conclusions XIV-1 (1998), The Netherlands; Médecins du Monde - International v. France, complaint No. 67/2011, decision on the merits of 11 September 2012: §178; Conclusions XX-2 (2013), Czech Republic

[130] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

[131] Conclusions XX-2 (2013), Czech Republic; Conclusions 2013, Sweden; Conclusions XIV-1 (1998), Iceland

[132] Defence for Children International (DCI) v. Belgium, complaint No. 69/2011, decision on the merits of 23 October 2012, §128

[133] European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, complaint No. 86/2012, decision on the merits of 2 July 2014, §187

Beneficiaries of social services are: i. children and young adults in conflict with the law, as well as those who enjoy international protection upon the decision of the authority responsible for asylum and refugees in the Republic of Albania; ii. adults who have social problems, victims of violence, victims of trafficking, and established drug and alcohol addiction; iii. elderly people in need; iv. persons with disabilities; and v. pregnant girls or single parents of a child up to one year old.
According to the law, the main public institutions responsible for the administration, monitoring and inspection system of social care services to ensure service quality and compliance with standards, are:

a) the ministry responsible for social affairs and its subordinate institutions (State Social Services and State Social Service Inspection);
b) the region;
c) the municipality.

According to Law No. 12/2016 "On Social Care Services", a beneficiary who is not satisfied with the service provided, the procedure or the behaviour of the service provider can file a complaint with the competent authority (Article 50). (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

The right to benefit from social welfare services provided for by Article 14§1 requires Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment.[134] Article 14 provides for an individual right subject to an effective right of appeal[135] to an independent body in urgent cases of discrimination and violation against human dignity.[136]

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.[137]

Under Article 14§1 the Committee reviews rules governing the eligibility conditions to benefit from the right to social welfare services (as an issue related to effective and equal access), the quality and supervision of the social services, and the rights of beneficiaries and their participation in the establishment and maintenance of social welfare services (Article 14§2). Persons applying for social welfare services should receive any necessary advice and counselling enabling them to benefit from the available services in accordance with their needs.[138] The access to social services must be effective and equal.[139]

The right to social services must be guaranteed in law and in practice.[140] Social services must have resources that correspond to their responsibilities and the changing needs of users.[141] This implies that: (i) staff shall be qualified and in sufficient numbers; (ii) decision-making shall be as close to users as possible;(iii) there must be mechanisms for supervising the adequacy of services, public as well as private.[142]

[134] Conclusions 2005, Bulgaria
[135] International Federation of Human Rights (FIDH) v. Belgium, Collective Complaint No. 75/2011, decision on the merits of 18 March 2013
[136] Conclusions 2017, Austria
[137] Conclusions 2009, Statement of Interpretation on Article 14§1
[138] Conclusions 2009, Statement of Interpretation on Article 14§1
[139] Conclusions 2005, Bulgaria
[140] Ibid.
[141] Ibid.
[142] Ibid.

The Committee takes note of the progress of the reform of social care system, in law and in practice in all aspects, including the development of the integrated electronic system of social services. In particular, it notes the decentralisation and empowerment of local governments to offer social services, to draft Local Social Plans and to benefit of additional funding support to establish such specialised services at municipal and regional level, through transfers from the Social Fund. The Committee recalls that already in 2019, it noted that an appropriate environment for the ratification of this article has already been established. In consequence, the Committee recommends acceptance of Article 14§1 without delay.

Article 14§2 *The right to benefit from social services - Public participation in the establishment and maintenance of social services*

Situation in Albania

The Government indicates that based on Article 9 of Law No. 12/2016 on "Social Care Services", according to the financing manner, social care services can be public and non-public services. Public social services include social care services that are provided in community centres, residential centres, day centres or at home. These services shall be financed from the state budget and from the local budget of local government units. Non-public services are classified into for-profit and non-profit services. For-profit social services cannot request or obtain funding from the state budget and the municipal budget. Non-profit social services enjoy the right to request or be granted funding from the state budget or from the municipal budget, only if they have concluded a contract with the subject responsible for providing the social care service. The functioning of these non-profit organisations is regulated by Law No. 8788/2001.
The Government also indicates that the law provides for a system of supervision of the quality control of social care services, which ensures their delivery according to defined standards and can impose fines and take administrative measures against both public and non-public providers in case of non-compliance. It involves the State Social Service for the services financed in whole or partially from the state budget, and the Inspectorate of Social Care Services, which controls both public and non-public providers. The National Agency on Health and Social Care Quality Assurance established in 2021, is responsible for developing and promoting continuing education quality standards for health and social care services professionals.

In addition, there is a licensing system in place. The number of licensed public and non-public residential social care facilities is 96, and the number of licensed public and non-public community-based care institutions is 280 (October 2022, National Business Center).
With regard to volunteering, as part of its evaluation and inspection work, the Department of Inspection of Social Care Services concludes:

- The presence of individuals who voluntarily contribute to various non-public religious centres, mainly residential care.
- Local organisations, as a volunteer community of individuals, providing social care services for the well-being of the communities they belong to. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services.[143] This does not imply a uniform model, and States Parties

[143] Conclusions 2005, Statement of Interpretation on Article 14§2

may achieve this goal in different ways: they may promote the establishment of social services jointly run by public bodies, private concerns and voluntary associations, or they may leave the provision of certain services entirely to the voluntary sector. The "individuals and voluntary or other organisations" referred to in paragraph 2 include: the voluntary sector (non-governmental organisations and other associations); private individuals, and private firms. [144]

The Committee examines all forms of support and care mentioned under Article 14§1 as well as financial assistance or tax incentives for the same purpose. States Parties must ensure that private services are accessible on an equal footing to all and are effective, in conformity with the criteria mentioned in Article 14§1. Specifically, States Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers involved. In order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, effective preventive and reparative supervisory system is required.[145]

Article 14§2 also requires States Parties to encourage individuals and organisations to play a part in maintaining services, for example by taking action to strengthen the dialogue with civil society in areas of welfare policy which affect the social welfare services. This includes action to promote representation of specific user–groups in bodies where the public authorities are also represented, as well as action to promote consultation of users on questions concerning organisation of the various social services and the aid they provide.[146] A system of authorisation or accreditation must be set up and the standard of services provided by voluntary organisations must be monitored.[147]

The Committee takes note of the information provided by the Government and of the progress in the implementation of social care system reform, noting in particular the system put in place to support, license and to ensure the supervisory mechanism of care service delivery, both public and non-public. The Committee recalls that already in 2019, it noted that an appropriate environment for the ratification of this article has already been established. In consequence, the Committee recommends acceptance of Article 14§2 without delay.

Article 15§§1-3 *The right of persons with disabilities to independence, social integration and participation in the life of the community*

Situation in Albania

The Government indicates that Article 59 of the Constitution of Albania provides for "social objectives", including the right to employment, housing, health care, education, rehabilitation and integration of persons with disabilities, improvement of their living conditions, care, assistance for the disabled, in order to protect them from social exclusion.

The Ministry of Health and Social Protection coordinates and monitors social inclusion policies for all categories of persons with disabilities in accordance with the principles of the UN Convention on the Rights of Persons with Disabilities (CRPD).

Law Nr. 93/2014 "On the Inclusion and Accessibility of Persons with Disabilities" provides for the right to inclusion, the accessibility of persons with disabilities, as well as the legal and institutional obligations in the implementation of inclusion, integration of persons with disabilities in accordance with the principles of the CRPD.

[144] Conclusions 2015, Turkey
[145] Conclusions 2005, Bulgaria
[146] Ibid.
[147] Conclusions 2017, Armenia

Law No. 93/2014 guarantees the promotion and protection of the rights of persons with disabilities to enable their full, effective participation in all spheres of society, on equal terms with others, allowing autonomy and independent living through the provision of support. The law outlines the role of public and non-public structures, including state, central and local, in implementing the principles of inclusion and accessibility in order to reduce, as far as possible, the obstacles for persons with disabilities.
In addition, the legal framework provides for "measures to remove environmental and infrastructural barriers in the provision of public services" for physical accessibility and accessible information, and for “protection against discrimination" including on grounds of disability.

Law No. 121/2016 on “Social Care Services” aims to develop a functional integrated system of social and health care services, at the local level, which promotes choice, and independence and encourages full and effective participation in society through equal access for all citizens in need of such services.

The Government informs that the Regional Employment Offices offer various services such as job and vocational guidance, vocational training, employment mediation, etc. Professional training for people with disabilities is provided free of charge in public vocational training centres. Vocational education and training courses are intended to be accessible to all categories of persons with disabilities.

An important change with an impact on people with disabilities is the increase in the number of psycho-social workers with 235 new employees for the years 2022-2023, in addition to the 634 psycho-social workers in 2021-2022. (see detailed information in “The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania”)

Opinion of the Committee

According to Article 15§1, all persons with disabilities have a right to education and training, including primary education, general and vocational secondary education as well as other forms of vocational training.[148] Article 15§1 of the Charter entails an obligation for States Parties to provide education for persons with disabilities in mainstream or special schools, while the priority shall be given to education in mainstream establishments[149]. The existence of non-discrimination legislation is an important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes.

The Committee assesses the effective equal access of children and adults with disabilities to education and vocational training, according to the following criteria:

- the total number of persons with disabilities, including the number of children;[150]
- the number of students with disabilities in mainstream classes, special unites within mainstream schools (or with complementary activities in mainstream settings) in special schools and vocational facilities;[151]
- the number and proportion of children with disabilities out of education;[152]
- the percentage of students with disabilities entering the labour market following mainstream or special education or/and training;[153]

[148] Conclusions 2020, Andorra
[149] Conclusions 2012, Ireland
[150] Conclusions 2012, Russian Federation
[151] Conclusions 2020, Andorra; Conclusions 2012, Russian Federation
[152] Conclusions 2020, Andorra
[153] Conclusions 2012, Russian Federation

- the number of persons with disabilities (children and adults) living in institutions;[154]
- any relevant case law and complaints brought to the appropriate bodies with respect to discrimination on the ground of disability in relation to education and training;[155]
- the number of children with disabilities who do not complete compulsory school, as compared to the total number of children who do not complete compulsory school;[156]
- the number and proportion of children with disabilities under other types of educational settings, including home-schooled children; children attending school on a part time basis or in residential care institutions, whether on a temporary or long-term basis;[157]
- the drop-out rates of children with disabilities compared to the entire school population.[158]

Article 15§1 is one of the rights protected by the Charter which is exceptionally complex and particularly expensive to resolve.[159] Therefore, the measures taken by a State to achieve the Charter's objectives must meet the following three criteria: (i) a reasonable timeframe, (ii) measurable progress and (iii) financing consistent with the maximum use of available resources.[160]

Article 15§2 requires States Parties to promote an equal and effective access to employment on the open labour market for persons with disabilities[161], while States Parties enjoy a certain margin of discretion regarding additional measures to promote access to employment of persons with disabilities.

Regarding working conditions, there is an obligation on the employer's side to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational illness.[162]

Article 15§2 of the Revised Charter requires that persons with disabilities be employed in an ordinary working environment, except where this is not possible due to the nature of the disability.[163] In such exceptional cases, provision may be made for sheltered employment.[164] They should aim to assist their beneficiaries to enter the open labour market.[165] Persons working in sheltered employment facilities where production is the main activity are entitled to the basic provisions of labour law and in particular the right to fair remuneration and trade union rights.[166]

The right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities).[167] Such measures, including technical aids, must not be

[154] Conclusions 2008, Lithuania
[155] Ibid.
[156] Conclusions 2020, Andorra
[157] Ibid
[158] Conclusions 2020, Andorra
[159] International Association Autism Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53
[160] Ibid.
[161] Conclusions XX-1 (2012), Czech Republic
[162] Conclusions 2007, Statement of Interpretation on Article 15§2
[163] Conclusions 2005, Estonia
[164] Ibid.
[165] Ibid.
[166] Ibid.
[167] Conclusions 2005, Norway

pursued in isolation and should be programmed to complement each other, on a clear legislative basis.[168]

For this purpose, Article 15§3 requires:

- the existence of comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated.[169]
- the adoption of a coherent policy in the disability context: positive action measures to achieve the goals of social integration and full participation of persons with disabilities.[170] Such measures should have a clear legal basis and be coordinated.[171]

To give meaningful effect to the promotion of the full social integration and participation in the life of the community of persons with disabilities:

- Mechanisms must be established to assess the barriers to communication and mobility faced by persons with disabilities and identify the support measures that are required to assist them in overcoming these barriers;[172]
- Technical aids must be available either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means. Such aids may for example take the form of prostheses, walkers, wheelchairs, guide dogs and appropriate housing support arrangements;[173]
- Support services, such as personal assistance and auxiliary aids, must be available, either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means.[174]

The Committee takes note of the progress of the reform, in terms of both legal framework and practice, and also recalls that Albania ratified the UN Convention on the Rights of Persons with Disabilities in 2013.

The Committee encourages Albania to continue to remove the obstacles that have prevented the acceptance of this provision in the past, in particular by demonstrating with reliable data the effective inclusive education, reasonable accommodation, and effective integration measures into the "ordinary labour market".

Article 16 *The right of the family to social, legal and economic protection*

Situation in Albania

The Government informs that the "National Strategy for Social Housing for the period 2016-2025" focuses on the individual and the family and the improvement of their living conditions, with the objective that by 2025 at least 60% of the housing requests registered by individuals/families should be addressed. The budget planning process takes this objective into account and aims to involve local self-governments as the primary responsible for managing the housing situation within their co-financing jurisdictions, as well as increasing their responsiveness to achieve this objective.

[168] Conclusions 2008, Statement of Interpretation on Article 15§3; Conclusions 2005, Norway
[169] Conclusions 2005, Norway
[170] Conclusions 2007, Slovenia
[171] Ibid.
[172] Conclusions 2008, Statement of Interpretation on Article 15§3
[173] Conclusions 2008, Statement of Interpretation on Article 15§3
[174] Ibid.

In addition, it provides extensive measures on existing legal, policy and practice to combat domestic violence and violence against women and girls, as well as to ensure gender equality**.** The National Strategy for Gender Equality 2021-2030 is built around the vision: “a society that values equality and gender justice as necessary conditions for the sustainable social, economic and political development of the country, empowering all individuals to enjoy equal rights and opportunities in all areas of life, leaves no one behind, and is based on the principle of zero tolerance towards harmful practices, gender-based violence and domestic violence, punishing the perpetrators and protecting, rehabilitating reintegrated abused persons".

The Government informs that the Commission for the Protection against Discrimination (CPD) has signed a Cooperation Agreement with UNDP within the comprehensive program "Expansion of free legal aid for women and men in Albania" for the implementation of the specific project: "Support for strengthening the institutional capacities of CPD in the protection of basic human rights and freedoms to promote the principle of equality and non-discrimination with a gender lens".

Decision No. 85/2021 "On determining the procedures, documentation and monthly measure of the benefit of economic assistance and the use of the additional fund on the conditional fund for economic assistance”, in order to mitigate the effects caused byCovid-19 pandemic, vulnerable groups including victims of domestic violence who received a protection order benefit from the doubling of economic assistance for a period of 6 months, starting with the financial effects from 1st January 2021. (see for further details “The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania”)

Opinion of the Committee

The Committee refers to the definition of “family” used in domestic law of each State Party.[175] However domestic law must not provide for an unduly restrictive definition.[176]

The scope of Article 16 is not restricted to family based on marriage.[177] Family means households of parents with children, including single parents and young couples that will potentially have children.[178] The principle of equality and non-discrimination form an integral part of Article 16.[179]

States Parties enjoy a certain margin of discretion to choose the means to ensure the social, legal and economic protection of various categories of family constellations.[180]

With regard to social protection, the Committee assesses a vast number of issues: family housing, childcare facilities, family counselling services and participation of family association in policy design.

The right to housing permits the exercise of many other rights – both civil and political as well as economic, social and cultural.[181] It is also of central importance to the family.[182] Families should have access to appropriate social services, in particular in times of difficulty.[183] States

[175] Conclusions 2011, Azerbaijan
[176] Ibid.
[177] Ibid.
[178] Conclusions XVII-1 (2005), Turkey
[179] European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §26
[180] European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on admissibility of 10 October 2005
[181] European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §24
[182] Ibid.
[183] Conclusions 2011, Turkey

Parties should provide inter alia family counselling and psychological guidance advice on childrearing.[184]

With regard to legal protection, the Committee assesses the following issues: rights and obligations of spouses, parental rights, mediation services and combating domestic violence. Spouses must be equal in respect of rights and duties within the couple, in particular, on issues linked to ownership, administration and use of property, parental authority and management of children's property.[185]

Any restrictions or limitations of custodial rights of parents should be based on adequate and reasonable criteria laid down in legislation and should not go beyond what is necessary for the protection and best interest of child and the rehabilitation of the family.[186]
Under Article 16 of the Charter, the legal protection of the family includes the availability of mediation services whose object should be to avoid the deterioration of family conflicts, help settle disputes and ensure that future relations between parents and between them and their children are not unduly damaged.[187] To be in conformity with Article 16, these services must be easily accessible to all families.

Article 16 of the Charter applies to all forms of violence against women and domestic violence and States Parties are required to ensure an adequate protection against such violence in both law and practice.[188]

With regard to economic protection, States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be family or child benefits provided as part of social security, available either universally or subject to a means-test.[189]States Parties are required to ensure the protection of vulnerable families, single-parent families, Roma families, in accordance with the principle of equality of treatment.[190]

States Parties must ensure equal treatment of foreign nationals of other States Parties who are lawfully resident or regularly working in their territory with respect to family benefits.[191]

In light of the information provided by the Government under this provision as well as under Articles 12, 13, 17, 27 and 31, considering also its previous assessment in 2012 and 2018, the Committee encourages the Albanian authorities to remove the remaining obstacles to ratification of this article, particularly with regard to housing and adequate economic protection.

Article 17§1 *The right of children and young persons to social, legal and economic protection - The right of children to social, economic and legal protection*

Situation in Albania

The Government indicates that the relevant legal framework includes Laws No.121/2016 "On Social Care Services" and No. 18/2017 "On the Rights and Protection of the Child", which redefined the alternative care system, giving priority to measures to support home care services, including interventions to protect children from abuse and exploitation. The principles of deinstitutionalisation and family empowerment are integrated as key principles of social care services.

[184] Ibid.
[185] Conclusions XIII-3 (1995), Turkey; Conclusions XVI-1 (2002), United Kingdom; Conclusions 2019, Austria
[186] Conclusions XV-2 (2001), Statement of Interpretation on Article 17§1
[187] Conclusions 2015, Austria; Conclusions 2006, Statement of Interpretation on Article 16
[188] Statement on Covid-19 and social rights adopted on 24 March 2021
[189] Conclusions 2019, Bosnia and Herzegovina
[190] Ibid.
[191] Conclusions XV-1 (2000), United Kingdom; Conclusions 2011, Azerbaijan

Also, the Ministry of Health and Social Protection (MHSP) approved the National Action Plan on Deinstitutionalization (NAPD) to guarantee and promote the right of "every child who is raised in residential institutions or is at any risk related to an institutionalized system, is entitled to live in a healthy and caring family, with the necessary prosperity and a strong and child-friendly community".
Law No. 18/2017 "On the Rights and Protection of the Child" transposes the rights of the child according to the UN Convention "On the Rights of the Child". This law applies to a child with Albanian citizenship (inside and outside the Albanian territory), a stateless child, or a child with foreign citizenship who is in the territory of the Republic of Albania.

According to the law, the child has the right to access and attend free and quality education, on the basis of equal opportunities and non-discrimination, in accordance with his/her age and maturity, he/she is guaranteed the right to free health care and the highest attainable standard, is protected from all forms of violence including abuse, neglect, exploitation, trafficking, kidnapping, pornography, sexual abuse, and other forms of violence, and has guaranteed access to free legal aid and psychological assistance.

According to the law, there is an institutional advisory and coordination mechanism in place to ensure the rights and protection of the child both at the central and local levels.
The National Agenda for Children's Rights 2021-2026 (NACR), which embeds children's views, has four strategic goals:

(i) good governance to respect, protect, and fulfil the rights of children;
(ii) elimination of all forms of violence and child protection;
(iii) child and adolescent-friendly systems and services; and
(iv) promoting children's rights in the digital world.

Several measures are in place to prevent and protect children from abuse and violence, and positive measures have also been taken to support newborns.
Regarding education, the Government indicates that the Constitution together with the main laws, legal acts and other strategic documents, considers the education sector as a priority.
In addition, the Constitution provides that "Compulsory education, as well as general secondary education in public schools, is offered free of charge".

The Government emphasizes that the principles of the education laws are fully aligned with the Charter of Fundamental Rights and Freedoms of the European Union.

Albania acceded to the United Nations Convention on the Rights of the Child on 27 February 1992 and ratified its optional protocols. With the ratification of the Convention on the Rights of the Child, Albania assumed the responsibility of harmonising national legislation and practices with the standards represented by the Convention.

Furthermore, the Government indicates that it has made considerable progress in aligning its education laws and policies to the acquis communautaire. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 17 guarantees the right of children to social, economic and legal protection. The Committee recalls that it is interprets this Article in light of the UN Convention on the Rights of the Child.[192] It imposes a positive obligation on States to adopt the necessary measures to

[192] Conclusions XV-2 (2001), Statement of Interpretation on Article 17; World Organisation against Torture (OMCT) v. Ireland, Complaint No. 18/2003, decision on the merits of 7 December 2004, §55

ensure that children can effectively exercise their right to grow up in an environment favourable to the development of their personality and their physical and mental abilities.[193]

States having accepted such provision must take all appropriate and necessary measures to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need.[194]

The obligation of States Parties to take all appropriate and necessary measures to ensure that children and young persons have the assistance they need is strongly linked to measures directed towards the amelioration and eradication of child poverty and social exclusion.[195]

This also applies where child poverty and social exclusion are caused or exacerbated by a public health crisis such as the Covid-19 pandemic.[196] Article 17§1 covers the following issues: the legal status of the child[197]; rights of children in public care[198]; protection of children from violence, ill–treatment and abuse[199]; children in conflict with the law[200]; the right to assistance.[201]

Article 17 requires States Parties to establish and maintain an education system that is both accessible and effective.[202]

The Committee recalls that when assessing the compliance with this provision, it takes into consideration: personal scope, quality of teaching, cost of education, school attendance, anti-bullying measures, the voice of the child in education.

There shall be a functioning system of primary and secondary education, which includes an adequate number of schools fairly distributed over the country.[203]

Education must be compulsory until the minimum age for admission to employment[204], while the primary and secondary education must be free of charge[205]. Equal access to education must be ensured for all children. In this respect particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children in hospital, children in care, pregnant teenagers, teenage months, children deprived of their liberty, etc.[206] There shall be a mechanism to control the quality of teaching and the methods used[207]. Measures must be taken to encourage school attendance and to actively reduce the number of children dropping out or not completing compulsory education and the rate of absenteeism.[208] Measures must be taken to introduce anti bullying policies in schools, i.e., measures relating to awareness raising, prevention and intervention.[209] States Parties should

[193] European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic, Complaint No. 157/2017, decision on the merits of 17 June 2020, §134
[194] Ibid.
[195] Statement on Covid-19 and social rights adopted on 24 March 2021
[196] Ibid.
[197] Conclusions 2019, Armenia
[198] Conclusions XV-2 (2001), Statement of Interpretation on Article 17
[199] Conclusions XV-2 (2001), Statement of Interpretation on Article 17
[200] Conclusions 2019, Armenia
[201] Ibid.
[202] Conclusions 2003, Bulgaria
[203] Ibid.
[204] Conclusions 2003, Statement of interpretation on Article 17
[205] Conclusions 2003, Bulgaria
[206] Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008, §34, citing Conclusions 2003, Bulgaria
[207] Ibid.
[208] Ibid.
[209] Conclusions 2019, Andorra

ensure child participation across a broad range of decision-making and activities related to education, including in the context of children's specific learning environments.[210]

Taking into consideration that Albania is a party to the UN Convention on the Rights of the Child since 1992, recalling its previous assessments in 2012 and 2019, in the light of the information provided by the Government for the current assessment which reflect the advancement in realising this right, the Committee encourages Albania to accept Articles 17§§ 1 and 2 without delay.

Article 18§§1-4 *The right to engage in a gainful occupation in the territory of other States Parties*

Situation in Albania

The Government indicates that in 2020, 2021 and 2022, the legislation for foreigners has been improved, in line with EU directives. In October 2021, the new Law No. 79/2021 "For foreigners" was approved. The new law was drafted in the implementation of the obligations related to the European integration process and especially to the approximation of the directives of Chapter 24 "Freedom, justice, security".

This law aims to improve the rights of foreigners in terms of the protection of migrants and their family members, refugees, and asylum seekers, as well as bringing as an innovation an integrated work and residence permit as the only permit issued by the Albanian authorities and enables foreigners to work and stay in the Republic of Albania. Law No. 79/2021 "On Foreigners", has simplified the procedures since now foreigners do not have to go to several counters and make several applications, but make a unique application and are the institutions that communicate with each other. During the years 2021 and 2022, most of the bylaws of Law 79/2021 "On Foreigners" have been drafted and approved, and a few acts are still in the process. From January 2023, the application for a unique permit is possible online on e-albania.al portal.
The Government states that the Action Plan of the National Strategy for Migration 2019 - 2022 has been implemented, and a new National Migration Strategy 2023-2027 and its corresponding Action Plan are under preparation.

Law no. 9668/2006 "Regarding the Emigration of Albanian Citizens for Work Purposes", with subsequent amendments and additions, recognizes the right of emigration to citizens of the country and, according to the law, is limited only to cases where national security, public health. and the rights and freedoms of others are also affected when there is a final court order. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

The Committee recalls that Article 18§1 applies to employees and the self-employed who are nationals of States which are party to the Charter.[211] It also covers members of their family allowed into the country for the purposes of family reunion.[212] It relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory[213].

[210] Ibid.
[211] Conclusions 2012, Serbia
[212] Ibid.
[213] Conclusions XIII-1 (1993), Sweden

In order to assess the degree of liberality in applying existing regulations, the Committee requires figures showing the rejection rates for work permits for both first-time and renewal applications.[214] A high percentage of successful applications by nationals of States Parties to the Charter for work permits and for renewal of work permits and a low percentage of refusals has been regarded by the Committee as a clear sign that existing regulations are being applied in a spirit of liberality.[215]

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.[216] It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.[217] An average time of two months for the granting of both work/residence visa for employees as well as self-employed is in compliance with Article 18§2.[218]

States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.[219] In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.[220]

Under Article 18§3, States are required to liberalise gradually the regulations governing the employment of foreign workers. The Committee developed assessment standards in the following areas: access to the national labour market; the right to engage in employment; and rights after loss of employment.

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.[221] 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 national of that country.[222] The restrictions initially imposed with regard to access to employment must therefore be gradually lifted.[223]

In cases where 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 Party 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.[224]

[214] Conclusions XXII-1 (2020), Germany
[215] Conclusions 2012, Serbia
[216] Conclusions 2016, Armenia; Conclusions XVII-2 (2005), Finland
[217] Conclusions XVII-2 (2005), Portugal
[218] ibid.
[219] Conclusions 2012, Statement of Interpretation on Article 18§2
[220] Ibid.
[221] Conclusions 2012, Ireland
[222] Ibid.
[223] Ibid.
[224] Conclusions 2012, Statement of interpretation on Article 18§3

The loss of employment should not lead to the cancellation of the residence permit, as this would require the worker to leave the country as soon as possible.[225] The validity of the residence permit should in fact be extended to give them enough time to find a new job.[226]

Early termination of the employment relationship of a foreign national for professional misconduct resulting in the automatic withdrawal of that person's residence permit with no possibility of seeking new employment is also contrary to Article 18§3 of the Charter.[227]

Under Article 18§4, States Parties undertake not to restrict the right of their nationals to leave the country to engage in gainful employment in other Parties to the Charter.[228]

There must be a legal framework guaranteeing the right of nationals to leave their country without restriction.[229]

People whose right to leave the country is restricted must have legal remedies to challenge such decisions.[230]

The only permitted restrictions are those provided for in Article G of the Charter, i.e. those which are "prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals."[231]

Restrictions may apply during the period of service (either voluntary or obligatory) of medical officers engaged in the armed forces provided that once they are free of their obligations there is no restriction on them exercising their right under Article 18§4.[232]

Blanket restrictions on the right of citizens to leave the national territory go beyond the permitted restrictions under Article G of the Charter and are not in conformity with Article 18§4 of the Charter.[233]

In the light of the information provided by the Government and considering its previous assessments from 2012 and 2018, the Committee reiterates its view that the situation in law and in practice seems to comply with the Charter and recommends Albania to consider acceptance of Articles 18§§1, 2,3 and 4 of the Charter without delay.

Article 23 *The right of elderly persons to social protection*

Situation in Albania

The Government indicates the progress it made in protecting the rights, dignity, and independence of older people, which has been a national priority for more than 30 years.

Ageing issues are mainstreamed into the main political documents of the country such as the Strategy for Development and Integration 2023-2030 (in the adoption process), as well as the new Social Inclusion Policy Document 2023-2027 (in the adoption process), and the National

[225] Conclusions XXII-1 (1991), Germany
[226] Ibid., citing Conclusions XVII-2 (2005), Finland
[227] Conclusions 2020, The Netherlands
[228] Conclusions 2020, Serbia
[229] Conclusions 2020, Latvia
[230] Ibid.
[231] Conclusions 2005, Cyprus; Conclusions XI-1 (1989), The Netherlands
[232] European Federation of Public Service Employees (EUROFEDOP) v. Greece, Complaint No. 115/2015, decision on the merits of 13 September 2017, §52
[233] Conclusions 2020, Ukraine

Political Document on Aging, 2020–2024, and its action plan. Law No. 121/2016 ”On Social Care Services” and Law No. 22/2018 ”On Social Housing” include specific provisions for the elderly.

Issues related to creating a protective environment for people in need, including the third age, have gradually been included in the Government’s list of priorities over the past ten years. Recently, by Decision No. 864/2019, of the Council of Ministers, the National Political Document on Aging, 2020-2024 and its action plan were approved.

The focal point for older adults and ageing within the Government is the Ministry of Health and Social Protection; the Social Care Development Program Unit runs the majority of ageing issues.

The Ageing Plan is based on three main pillars: Social Protection and Social Inclusion; Integrated social services to help older people throughout their lives; and Accessible health services.

By implementing this Plan, the Government aims to improve the pension system and access to public transport for thousands of vulnerable elderly people. Thousands more elderly people will be able to benefit from new day centres and social activities organised by the Government and municipalities, while there will be more housing options and residential centres for those with special needs. Also, every year, thousands of older people will have new opportunities for integrated and higher quality social and health services.
The pension scheme faces demographic and economic challenges. The old-age dependency ratio almost doubled from 8.6% in 1989 to 16.7% in 2011. In 2030, this ratio is expected to double again to reach 32.9 %. The structure of the financing mix in social protection has been stable over the past decade. In recent years, deep reforms have been undertaken in each of the three main programmes (insurance, social assistance and disability), with the aim of improving the fiscal sustainability and targeting of the programmes.

Under the economic assistance scheme, elderly people who belong to families in need benefit from the measure of economic assistance, and free health services.

In the disability payment scheme, elderly people with disabilities who meet the conditions for benefit, are treated with payments, according to the category to which they belong.
The Government also states that six new services for the elderly beneficiaries currently serve 557 elderly people. Moreover, the provision of domestic assistance for the elderly in the apartment, as a new typology of services with its standards, are already approved and implemented in the capital city, targeting 80 older persons without family support with social and economic needs, including health care, meals, social cultural activities and occupational therapy.

The Government indicates that there are 31 public centres (9 centres financed annually from the central budget for employee salaries and food) and 14 non-public centres for the elderly operating in Albania, serving 2,300 elderly people.

Furthermore, the Government provides comprehensive information on the legal and policy frameworks that support the provision of health care services for elderly people and community programmes to improve social inclusion.

The Government informs that Law No. 22/2018 “On Social Housing”, defines the elderly as a priority category for housing. (see for detailed information “The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania”)

Opinion of the Committee

Article 23 requires States Parties to combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services.[234] Pervasive age discrimination persists in many areas of society throughout Europe, including healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities.[235] Therefore an adequate legal framework is a fundamental measure to combat age discrimination in these areas.[236]

Article 23 requires the States Parties to make sure that they have appropriate legislation to, firstly, combat age discrimination outside employment and to, secondly, provide for a procedure of assisted decision making.[237]

Legislation allowing practices leading to a part of the older population being denied access to informal care allowances or other alternative support constitutes a violation of Article 23.[238] Older persons at times may have reduced capacity-making powers or no such powers or capacity at all.[239] Therefore, there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves.[240] This means that older 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.[241]

An older 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.[242]

Older 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.[243]

In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons, including in instances of reduced decision-making capacity.[244] It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights.[245]

Article 23 also requires States Parties to take appropriate measures against the abuse of older persons.[246] Abuse can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect.[247] States Parties must therefore take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate abuse and neglect of older persons, and to adopt legislative or other measures.[248]

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[234] Conclusions 2009, Andorra
[235] Ibid.
[236] Ibid.
[237] Ibid.
[238] Conclusions 2003, France
[239] Ibid.
[240] Conclusions 2013, Statement of Interpretation on Article 23 – assisted decision-making
[241] Ibid.
[242] Conclusions 2013, Statement of Interpretation on Article 23 – assisted decision-making
[243] Ibid.
[244] Ibid.
[245] Ibid.
[246] Conclusions 2009, Andorra
[247] Ibid.
[248] Ibid.

- **to enable elderly persons to remain full members of society for as long as possible, by means of:**

a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow older persons to lead a 'decent life' and play an active part in public, social and cultural life.[249]

However when assessing the adequacy of resources of older persons under Article 23, all social protection measures guaranteed to older 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.[250] In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to older persons are examined.[251] These resources are then compared with the median equivalised income.[252] The Committee also takes into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.[253]

b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

Although Article 23 only refers to the provision of information about services and facilities, paragraph 1b presupposes the existence of services and facilities.[254] Therefore, it is not only information relating to the provision of information about these services and facilities that is examined but also the services and facilities themselves.[255] In doing so, the Committee examines 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 older persons.[256]

Furthermore, States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services.[257]

Insufficient regulation of fees for service housing and service housing with 24-hour assistance May amount to a violation of Article 23.[258]

- **to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:**

a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;

[249] Conclusions 2013, Statement of Interpretation on Article 23 – adequate resources for the older persons
[250] Ibid.
[251] ibid.
[252] Ibid.
[253] Ibid.
[254] Conclusions 2003, France
[255] Conclusions 2003, France
[256] Ibid.
[257] Conclusions 2009, Andorra
[258] The Central Association of Carers in Finland v. Finland, Complaint No 71/2011, decision on the merits of 4 December 2012, §53

The needs of older persons must be taken into account in national or local housing policies.[259] The supply of adequate housing for older persons must be sufficient.[260] Policies should help older 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.[261] The improvement of housing conditions of older persons requires considerable public funding as the average older person usually cannot afford the costs of modernisation of their apartment or purchasing a new apartment of a higher standard.[262] Improvement of housing conditions by moving elsewhere is often not a viable option as it may uproot the older person from their "natural" environment.[263]

b. the health care and the services necessitated by their state;

In the context of the right to adequate health care for older 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 older persons.[264]

In addition, there should be mental health programmes for any psychological problems in respect of older persons, and adequate palliative care services.[265]

- **to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.**

The final part of Article 23 deals with the rights of older persons living in institutions. In this context, it provides that the following rights must 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 older person, and the right to complain about treatment and care in institutions.[266]

There should be a sufficient supply of institutional facilities for older persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions should be licensed, and subject to an independent inspection body.[267]

Older persons of foreign origin in institutional care who unable to communicate in the national language must benefit from measures ensuring that they can express themselves, communicate and be consulted in an appropriate manner.[268]

Older persons and their organisations must be consulted on policies and measures that concern them directly, including on ad hoc measures taken with regard to the current crisis.[269] Planning for the recovery after the pandemic must take into account the views and specific

[259] Conclusions 2003, France
[260] Ibid.
[261] Conclusions 2013, Andorra; International Federation of Associations of the Elderly (FIAPA) v. France, Complaint No. 145/2017, decision on the merits of 25 May 2019, §45
[262] Conclusions 2009, Andorra
[263] Conclusions 2017, Bosnia and Herzegovina
[264] Conclusions 2003, France; Conclusions 2017, Ukraine
[265] Conclusions 2003, France
[266] Conclusions 2017, Malta; Conclusions 2017 Portugal
[267] Conclusions 2005, Slovenia; Conclusions XX-2 (2013), Czech Republic
[268] Conclusions 2005, Slovenia
[269] Ibid.

needs of older persons and be firmly based on the evidence and experience gathered in the pandemic so far.[270]

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 and sedatives are also examined under this provision.[271]

As regards acceptance of Article 23 of the Charter, the situation in practice is of particular importance in order to assess the extent to which the effective exercise of the right of elderly persons to social protection is ensured.

In the light of the information provided by the Government, the Committee takes note of the progress made by Albania in ensuring the right of older persons to social protection and considers that it needs further information to assess if the right is effectively exercised in practice, in particular to assess if adequate resources are allocated to pensions. The Committee encourages Albania to consider ratification of Article 23 in the near future.

Article 27§§1-3 *The right of workers with family responsibilities to equal opportunity and treatment*

Situation in Albania

The Government indicates that the rights of workers with family responsibilities are covered by the following legal framework.

Law No. 7703/1993 “On Social Insurance” (with subsequent amendments) provides that social insurance necessarily protects all economically active citizens in Albania, including in the event of a decrease in their income due to pregnancy, old age, disability, or loss of the head of the family.

The social insurance system also protects all employed people if their income falls as a result of temporary incapacity to work due to illness, job-related injury or unemployment.

The Council of Ministers can decide to expand the scope of social protection provided by the scheme, or specify exceptions in the case of:

- Temporary or seasonal employees;
- Self-employed in the agricultural sector;
- Unpaid workers from the families of self-employed persons;
- Interns and students for the duration of the internship/course who are insured only against job-related injuries from the employer;
- Pensioners.

The Government indicates that in 2022 new legislation “For special protection from the state for unemployed women with three or more children aged up to 18 years” was adopted. This provides for special protection, by the state, for unemployed women with three or more children up to 18 years of age, if one of the children is under 5 years of age and the family has income under 100,000 ALL per month, the period of child care up to the age of 5 is recognised as an insurance period for the effect of old age pension and maternity. Benefits are paid at the level of the national minimum wage. It is estimated that there are approximately 5580 unemployed women who belong to the targeted category.

[270] Ibid.
[271] Conclusions 2005, Slovenia; Conclusions 2003, France

Law No. 7703/1993 “On Social Insurance” (with subsequent amendments) provides for pregnancy benefits: insurance payable for paid pregnancy leave, income during pregnancy period, and pregnancy income for insured women. It also improved and eased the legal conditions for obtaining maternity leave and included the right of men to obtain paternity leave for childcare. In addition, the law provides for job change compensations due to pregnancy and childbirth. (see for further details “The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania”)The Government indicates that it is considering accepting Article 27§2.

Opinion of the Committee

Under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment since these persons may face difficulties on the labour market due to their family responsibilities.[272]

Therefore, measures need to be taken by States Parties to ensure that workers with family responsibilities are not discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training.[273]

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.[274] Measures need to be taken concerning the length and organisation of working time.[275] Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.[276]

These measures should apply equally to men and women.[277]

The type of measures to be taken cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).[278]

Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.[279]

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, that are available and accessible to workers with family responsibilities.[280] Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.[281]

In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.[282]

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[272] Conclusions 2005, Sweden
[273] Conclusions 2005, Estonia
[274] Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g Conclusions 2005, Estonia
[275] Ibid.
[276] Ibid.
[277] Conclusions 2005, Lithuania
[278] Conclusions 2019, Belgium
[279] Conclusions 2003, Sweden
[280] Conclusions 2005, Statement of Interpretation on Article 27§1c; see e.g Conclusions 2005, Estonia
[281] Conclusions 2019, Armenia
[282] Conclusions 2003, Italy

Article 27§2 provides for the right to parental leave which is distinct from maternity leave.[283] It requires States Parties to provide the possibility for either parent to obtain parental leave, as an important element for the reconciliation of professional, private and family life. The duration and conditions of parental leave should be determined by States Parties.[284]

Domestic law should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child.[285] With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.[286] The States Parties are under a positive obligation to encourage the use of parental leave by either parent.[287]

Remuneration of parental leave plays a vital role in the take up of childcare leave, in particular for fathers or lone parents.[288] States Parties shall ensure that an employed parent is adequately compensated for their loss of earnings during the period of parental leave.[289] The modalities of compensation is within the margin of appreciation of the States Parties and May be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations.[290] Regardless of the modalities of payment, the level must be adequate.[291] Unpaid parental leave is not in conformity with Article 27§2.[292]

Family responsibilities must not constitute a valid ground for termination of employment. In this context, the notion of "family responsibilities" is to be understood as obligations in relation to dependent children as well as other members of the immediate family who need care and support (for instance elderly parents).[293] The purpose of Article 27§3 is to prevent these obligations from restricting preparation for and access to working life, exercise of an occupation and career advancement for works with family responsibilities.[294] Workers dismissed on such illegal grounds must be afforded the same level of protection as that afforded in other cases of discriminatory dismissal under Article 1§2 of the Charter.[295] In particular, courts or other competent bodies should be able to order reinstatement of an employee unlawfully dismissed and/or to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.[296] Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed.[297] If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time.[298]

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[283] Conclusions 2011, Armenia
[284] Ibid.
[285] Ibid.
[286] Ibid.
[287] Conclusions 2015, Statement of interpretation on Article 27§2
[288] Conclusions 2011, Armenia
[289] Conclusions 2015, Statement of interpretation on Article 27§2
[290] Ibid.
[291] Ibid.
[292] Conclusions 2019, Ireland, Malta
[293] Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g Conclusions 2003, Bulgaria
[294] Ibid.
[295] Conclusions 2007, Finland
[296] Ibid.
[297] Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3
[298] Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3, see also Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No.158/2017, decision on the merits of 11 September 2019, §96

In the light of this information and considering its previous assessments from 2012 and 2018, the Committee reiterates that there are no major obstacles in law and in practice and encourages Albania to accept Article 27§§1, 2 and 3 of the Charter without delay.

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

Situation in Albania

The Government provides information on existing policy measures aimed at reducing poverty, social exclusion and discrimination.

The policy framework includes the Social Inclusion Policy Document (SIPD) 2023-2027, the National Action Plan for Persons with Disabilities (2021-2025), the National Action Plan for Equality, Inclusion and Participation of Roma and Egyptians (2021-2025), the National Action Plan on Aging 2020-2024, the National Action Plan for LGBTI+ 2021-2027, the National Strategy for Gender Equality (2021-2030), the Agenda for the Rights of the Child (2022 - 2026).

The Social Inclusion Policy Document (SIPD) 2023-2027, as part of the consultation process at the time of reporting, aims to ensure a transparent, accountable, and regular system of measuring and evaluating social inclusion in the policy areas of exclusion and poverty, social protection, employment and skills, health, education, housing and deprivation of basic needs, and human rights. The overall objective of the SIPD is to implement and achieve a balanced and sustainable framework to ensure that social inclusion is measured, monitored and reported in Albania through a robust set of indicators, thereby improving the ways in which social inclusion is linked to improving results and impact of Government policies and Albania's progress towards EU membership. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework,[299] a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance.[300] It must link and integrate public policies in a consistent way, embedding the fight against poverty and social exclusion in all strands of policy and moving beyond a purely sectoral or target group approach.[301]

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, there should be an increase in the resources deployed to make social rights possible. Adequate resources are one of the main elements of the overall strategy to fight social exclusion and poverty and should consequently be allocated to attain the objectives of the strategy.[302] The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.[303] As long as poverty and social exclusion persist, they should also represent an increase in the resources deployed to realise social rights.[304]

[299] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[300] Conclusions 2013, Statement of interpretation on Article 30
[301] Statement on Covid-19 and social rights adopted on 24 March 2021

The measures taken 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.[305]

States Parties must adopt monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion.[306] Further, States' failure to collect reliable data and statistics in respect of groups generally acknowledged to be socially excluded or disadvantaged, including highly dependent adults with disabilities deprived of access to care and accommodation centres, prevents an "overall and co-ordinated approach" to the social protection of these persons and constitutes an obstacle to the development of targeted policies concerning them.[307]

When assessing compliance with the Charter, definitions of poverty and social exclusion and measuring methodologies applied at the national level and the main data made available are systematically reviewed.[308] The Committee also takes into account a set of indicators in order to assess in a more precise way the effectiveness of policies, measures and actions undertaken by States Parties within the framework of this overall and co-ordinated approach.[309]

i. Resources
One of the key indicators in this respect is the level of resources (including any increase in this level) that have been allocated to attain the objectives of the strategy,[310] in so far as "adequate resources are an essential element to enable people to become self-sufficient".[311]

ii. Relative poverty rate
In addition, the main indicator used to measure poverty is the relative poverty rate (this corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income).[312]

iii. At-risk-of-poverty-rate
Furthermore, the at-risk-of-poverty rate before and after social transfers (Eurostat) is also used as a comparative value to assess national situations.

The absence of decisive progress in combating poverty and social exclusion in a context of economic growth is a ground for non-conformity under Article 30.[313]

Further, the reference to the social rights enshrined in Article 30 should not be understood too narrowly. In fact, the fight against social exclusion is one area where the notion of the indivisibility of fundamental rights takes on a special importance.[314] In this regard, the right to vote, as with other rights relating to civic and citizen participation, constitutes a necessary dimension in social integration and inclusion and is thus covered by Article 30.[315] Therefore,

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[305] Ibid.
[306] Ibid.
[307] International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision of 18 March 2013, §§ 193, 197
[308] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[309] Ibid.; Conclusions 2013, Statement of interpretation on Article 30
[310] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[311] Ibid.
[312] Conclusions 2013, Statement of interpretation on Article 30
[313] See, e.g., Conclusions 2017, Ireland
[314] Conclusions 2013, Statement of interpretation on Article 30
[315] Conclusions 2013, Statement of interpretation on Article 30 citing European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §99

States must also facilitate access to identification documents that are fundamental to obtaining residency and citizenship in order to exercise civil and political participation.[316]

These two dimensions of Article 30, poverty and social exclusion, constitute an expression of the principle of indivisibility which is also contained in other provisions of the Charter (for example, enjoyment of social assistance without suffering from a diminution of political or social rights, Article 13).[317]

The Committee takes note of the information provided by the Government, in particular on the policy frameworks which are to introduce measures to alleviate the situation of certain groups with higher vulnerabilities, and to reduce poverty and social exclusion. Given that the poverty rate in Albania remains very high (22% for 2021), and that information on the practical application of the legislation and policy framework, as well as statistic data in relation to particular vulnerable group are missing, the Committee wishes to encourage Albania to make additional efforts to ensure a coordinated approach and adequate measures in quality and quantity to the nature and extent of poverty and social exclusion.

Article 31§§1-3 *The right to housing*

Situation in Albania

The Government indicates the legal framework that regulates the right to housing.

The Constitution considers housing as one of the social objectives of the state. Article 59 provides that the state, within the limits of its constitutional powers and the means at its disposal, as well as in complementing the private initiative and responsibility, aims […] to meet the housing needs of the citizens.

However, the fulfilment of social objectives cannot be sought directly in court. The law defines the conditions and the extent to which the fulfilment of these objectives can be requested.

Law No. 22/2018 "On Social Housing" introduces the fundamental principles of housing policy, including security of tenure, affordable housing and adequate housing, cultural adequacy; transparency; participation and non-discrimination.

The law defines different housing programs to gradually address housing needs and the needs of different income groups, starting with temporary houses considered to shelter the basic needs for emergency cases and ending with affordable housing (in Albanian: 'low-cost housing), targeting those that earn an average income.
Specifically, the housing programs as by the law include:

(1) Social housing programs, provided by the public and/or private sector and rented to poor and vulnerable groups with rent limited to affordable levels;
(2) Low-cost housing, which is intended to be owned by future buyers, through various fiscal instruments;
(3) Program to improve existing housing conditions that are at risk of collapse, as well as those that are depreciated and need the necessary interventions and improvements that benefit families with special needs such as people with disabilities; individuals with orphan status; the elderly; Roma, Egyptian, rural communities, etc.
(4) The Temporary Housing Program, which is indispensable in terms of addressing emergency needs such as natural disasters, migrants, etc.

[316] Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 103 and 108
[317] Conclusions 2013, Statement of interpretation on Article 30

(5) Specialized housing program, which addresses the social problems of particular groups, such as the elderly and/or people with disabilities; victims of human trafficking; victims of domestic violence; children who do not have parental care, etc.
(6) Land development for housing purposes, where families can build their own houses on land provided by local authorities, together with the urban planning study. This program aims to replicate the informal sector housing developments, using the self-help contribution of inhabitants.
The law also provides instruments to make housing affordable to tenants or future owners, more specifically:

(1) The contribution of the construction sector to the provision of social housing. With the adoption of the law, each private subject that builds over 2000 m^2 of building area passes 3% of the area to the municipality to be included in the public housing fund.
(2) Cooperation with the private sector in cases of development of a residential area on public land. The acquired surfaces will be transferred to the municipality, which will be used as social housing for rent.
(3) Lump-sum subsidy for specific social groups, to be used either for the purchase of a low-cost home or for the improvement of the existing one;
(4) Competing grants to local governments for specific housing projects, particularly to improve the living conditions of poor and marginalized groups;
(5) Rent subsidy, which can be used either for public rental housing or to cover the affordability gap in a private rental market. (see for further details "The 4th National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Albania")

Opinion of the Committee

States Parties should promote access to housing in particular to different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems.[318]

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.[319] States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.[320]

Positive measures in the field of housing must be adopted in respect of vulnerable persons, paying particular attention to the situation of Roma and Travellers.

The fact that some refugee and asylum-seeking unaccompanied children May remain for lengthy periods of time in temporary accommodation facilities (emergency hotels and Safe zones) does not satisfy the requirements of long-term accommodation suited to their specific circumstances, needs and extreme vulnerability and violates Article 31§1.[321] These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.[322]

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for

[318] Conclusions 2003, Italy
[319] European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95
[320] Ibid.

landlords.[323] The ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.[324]

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies.[325] Any appeal procedure must be effective.[326]

Article 31§2 requires States Parties to gradually reduce homelessness with a view to its elimination.[327] Reducing homelessness implies the introduction of measures such as provision of immediate shelter and care for the homeless and measures to help such people overcome their difficulties and prevent a return to homelessness.[328]

States Parties must take action to prevent categories of vulnerable people from becoming homeless. This requires States Parties to introduce a housing policy for all disadvantaged groups of people to ensure access to social housing and housing allowances. (cf. Article 31§3).[329]

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.[330]

Forced eviction can be understood to cover situations involving deprivation of housing which a person occupied due to insolvency or wrongful occupation.[331] States Parties must set up procedural safeguards to limit the risk of eviction.[332]
States Parties shall foresee sufficient places in emergency shelters[333] and the conditions in the shelters should be such as to enable living in keeping with human dignity.[334]

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.[335] States Parties are required to provide adequate shelter to children unlawfully present in their territory for as long as they are within their jurisdiction.[336] As the scope of Articles 31§2 and 17 overlap to a large extent, the Committee assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States Parties have accepted both provisions.[337]

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[323] Conclusions 2003, France
[324] European Roma Rights Center (ERRC) v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §26; European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, §79
[325] Conclusions 2003, France
[326] Conclusions 2015, Austria
[327] Conclusions 2003, Sweden
[328] Ibid.
[329] Conclusions 2003, Sweden; Conclusions 2005, Lithuania; Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §136
[330] Conclusions 2007, Italy
[331] Conclusions 2003, Sweden; Conclusions 2019, Ukraine
[332] Conclusions 2005, Lithuania
[333] European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §107
[334] European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 108-109
[335] Conclusions 2019, Greece
[336] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §117
[337] European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, decision on the merits of 24 January 2018, §173

The housing of people in reception camps and temporary shelters which do not satisfy the standards of human dignity is in violation of the aforementioned requirements.[338] States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.[339]

The exceptional nature of the situation resulting from an increasing influx of migrants and refugees and the difficulties for a State in managing the situation at its borders cannot absolve that State of its obligations under Article 31§2 of the Charter to provide shelter to migrant and refugee children, in view of their specific needs and extreme vulnerability, or otherwise limit or dilute its responsibility under the Charter.[340]

Under this provision, States Parties are required to take measures to ensure an adequate supply of affordable housing to persons with limited resources.[341]

States Parties must:

- adopt appropriate measures for the provision of housing, in particular social housing.[342] Social housing should target, in particular, the most disadvantaged;[343]
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;[344] judicial or other remedies must be available when waiting periods are excessive.[345]

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or Travellers wishing to live in mobile homes.[346]

Under Article 31§3, States Parties are required to adopt comprehensive housing benefit systems to protect low-income and disadvantaged sections of the population.[347] Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.[348]

The Committee takes note of the progress made by the Government in ensuring the right to housing. In the light of the information received and considering its previous assessment from 2019, the Committee encourages Albania to consider acceptance of Article 31§§1, 2 and 3.

[338] Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §62
[339] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §121
[340] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §133
[341] Conclusions 2003, Sweden
[342] Conclusions 2003, Sweden
[343] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100
[344] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §131
[345] Ibid.
[346] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149-155; Conclusions 2019, France
[347] Conclusions 2003, Sweden; Conclusions 2019, Greece
[348] Conclusions 2003, Sweden

APPENDIX I - SITUATION OF ALBANIA WITH RESPECT TO THE EUROPEAN SOCIAL CHARTER

Signatures, ratifications and accepted provisions

Albania ratified the Revised European Social Charter on 14 November 2002, accepting 64 of the Charter's 98 paragraphs.

Albania has not yet accepted the Additional Protocol providing for a system of Collective Complaints.

The Charter in domestic law
Automatic incorporation into domestic law based on Article 122 of the Constitution.

Table of accepted and non-accepted provisions by North Macedonia

Grey = 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										

Meetings and reports on non-accepted provisions

- 1st Report on non-accepted provisions of the European Social Charter by Albania, 24-25 October 2007
- 2nd Report on non-accepted provisions of the European Social Charter by Albania, 5 June 2012
- Meeting on non-accepted provisions of the European Social Charter, Albania, 22 November 2018

APPENDIX II

Reykjavík Summit of the Council of Europe:
United around our values
Reykjavík Declaration
(Extract)

(Final outcome document adopted by the 4th Summit of Heads of State and Government of the Council of Europe in Reykjavík, Iceland, 16 17 May 2023)

[…]

24. Social justice is crucial for democratic stability and security and in this regard we reaffirm our full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system. We will consider the organisation of a High-Level Conference on the European Social Charter, as a step to take further commitments under the Charter where possible.

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