

## **Appendix Revised Charter**

### **Questions on Group 4 provisions (Conclusions 2023)**

#### **Children families and migrants**

This questionnaire covers Thematic Group 4 – Children, families and migrants, comprising Articles:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- 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),
- the right of migrant workers and their families to social, legal and economic protection (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

The ECSR will pursue the targeted and strategic approach adopted since 2019 (see Conclusions 2020 and 2021). It is therefore not asking that national reports address all accepted provisions in the Group. Certain provisions are excluded, except:

- when connected to other provisions which are the subject of specific questions
- when the previous conclusion was one of non-conformity
- when the previous conclusion was one of deferral due to lack of information
- when the previous conclusion was one of conformity pending receipt of specific information.

Moreover, given the magnitude, implications and expected longer-term consequences of the Covid-19 pandemic, the ECSR will pay particular attention to pandemic-related issues. In this connection, it is relevant to note that the reference period for Conclusions 2023 is 1 January 2018 to 30 December 2021. The Committee draws attention to relevant parts of its Statement on Covid-19 and social rights adopted on 24 March 2021.

Given the date of transmission of this questionnaire, the Committee requests that state reports be submitted by **31 December 2022** (and not the usual deadline of 31 October).

#### **Article 7 – The right of children and young persons to protection**

##### **Excerpts from the ECSR's case law**

In application of Article 7§1, domestic law must set the minimum age of admission to employment at 15 years.

The prohibition on the employment of children under the age of 15 applies to all economic sectors, including agriculture, and all places of work, including work within family enterprises and in private households. It also extends to all forms of economic activity, irrespective of the status of the worker (employee, self-employed, unpaid family helper or other).

The effective protection of the rights guaranteed by Article 7§1 cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. The Labour Inspectorate has a decisive role to play in this respect.

The ECSR has noted that many states' legislation is in conformity with the Charter regarding the minimum age for employment. Nevertheless, the ECSR has expressed concern about the situation in practice. There is data that suggests that in many countries there are significant numbers of children working illegally. However, there is little official data on the extent of the problem.

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

The "fair" or "appropriate" character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above).

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

Article 7§10 of the Charter guarantees protection against sexual and other exploitation of children as well as protection against the misuse of information technology and social media (for the purposes of online bullying, child pornography, grooming, harassment, etc.), which is particularly pertinent in view of the acceleration of digitalisation and online activity brought about by the pandemic.

Article 7§10 is applicable to foreign children in an irregular situation on the territory of a State Party to the Charter as not considering States Parties to be bound to comply with this obligation in the case of foreign minors who are in a country unlawfully would mean not guaranteeing their fundamental rights and exposing the children and young persons in question to serious impairments of their rights to life, health and psychological and physical integrity.

Therefore, measures should be taken to ensure the protection of unaccompanied or separated minors. The failure to care for unaccompanied foreign minors present in the country and take the necessary measures to guarantee these minors the special protection against physical and moral hazards causes a serious threat to their enjoyment of the most basic rights, such as the right to life, to psychological and physical integrity and to respect for human dignity, in violation of Article 7§10.

**With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:**

**1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;**

*a) Please provide information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. In this regard, please provide information on the number of children actually working (either from existing statistics on this issue or from surveys to be conducted to obtain such information), as well as on measures taken to identify and monitor sectors*

where it is strongly suspected that children are working illegally (General question, Conclusions 2019).

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

**2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;**

No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the question(s) raised.

**3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;**

No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

**4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;**

No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

**5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;**

- a) Please provide updated information on net minimum wages and allowances payable to persons under 18 years of age. Please provide information on measures taken to ensure that fair remuneration is guaranteed to young workers:
- i) In atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)
  - ii) in the gig or platform economy and
  - iii) having zero hours contracts.
- b) Please provide information on measures taken to ensure that this right is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions) (General question, Conclusions 2019).
- c) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

**6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;**

*No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;**

*No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;**

*No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;**

*No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.**

- a) *Please provide updated information on the measures taken to strengthen the protection of children, including migrant, refugees, and displaced children, from sexual exploitation and abuse (in particular in response to the risks posed by the Covid-19 pandemic) during the reference period, including information on the incidence of such abuse and exploitation.*
- b) *Please provide information on the impact of the Covid-19 pandemic on the monitoring of the exploitation and abuse of children, as well as measures taken to strengthen monitoring mechanisms.*
- c) *Please provide information on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).*

- d) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

## **Article 8 – The right of employed women to protection of maternity**

### **Excerpts from the ECSR's case law**

Article 8 of the Charter provides specific rights protecting employed women during pregnancy and maternity. The aim of such protection is the protection of the health of a mother and a child. Such protection is possible where employed women are entitled to safe and healthy working conditions, i.e. such working conditions which take due regard to their specific needs during respective periods. Safe and healthy working conditions include also protection against less favourable treatment due to pregnancy and maternity.

Since pregnancy and maternity are gender-specific, any less favourable treatment due to pregnancy or maternity is to be considered as direct gender discrimination. Consequently, the non-provision of specific rights aimed at protecting the health and safety of a mother and a child during pregnancy and maternity, or the erosion of their rights due to special protection during such a period are also direct gender discrimination.

It follows that, in order to ensure non-discrimination on the grounds of gender, employed women during the protected period may not be placed in a less advantageous situation, also with regard to their income, if an adjustment of their working conditions is necessary in order to ensure the required level of the protection of health. It follows that, in the case a woman cannot be employed in her workplace due to health and safety concerns and as a result, she is transferred to another post or, should such transfer not be possible, she is granted leave instead, States Parties must ensure that during the protected period, she is entitled to her average previous pay or provided with a social security benefit corresponding to 100% of her previous average pay. Further, she should have the right to return to her previous post.

**With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:**

**1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;**

- a) *Please provide information whether the Covid-19 crisis had an impact of on the right to paid maternity leave (in particular whether all employed women concerned – in the private as in the public sector - continue to receive at least 70% of their salary during the whole length of the compulsory maternity leave during the Covid-19 crisis).*
- b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;**

a) *Please provide information:*

i) *whether the Covid-19 crisis had an impact on the possibility of dismissing pregnant employees and employees on maternity leave and*

ii) *whether there were any exceptions to the prohibition of dismissal during pregnancy and maternity leave during the pandemic.*

b) *If the previous conclusion was one of non-conformity, please explain whether and how the non-conformity was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;**

*No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;**

a) *Please provide updated information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.*

b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.**

a) *Please provide updated information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that the women concerned retain the right to return to their previous employment at the end of the protected period.*

b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

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

### Excerpts from the ECSR's case law

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. It follows that States Parties must show due diligence in deploying measures such as restraining orders penal sanctions for perpetrators, adapted judicial procedures, and adequate compensation for victims, and training, particularly for police officers and other working directly with victims as well as collection and analysis of reliable data. States must ensure provision of shelter or protected accommodation for victims or for women at risk of violence, as well as services to reduce the risk of violence and support and rehabilitate victims. Victim empowerment should also be strengthened through early advice and protection measures as well as minimum or supplemented income for victims or would-be victims.

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.

Family benefits must constitute an adequate income supplement for a significant number of families. Adequacy is assessed with respect to the median equivalised income (Median equivalised income (Eurostat): the income of a household is established by summing all monetary income received from any source by each member of the household. In order to reflect differences in household size and composition, this total is divided by the number of "equivalent adults" using a standard scale (the so-called modified OECD equivalence scale). The resulting figure is attributed to each member of the household.).

**With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means**

- a) *Please provide updated information on measures taken to reduce all forms of domestic violence against women including information on incidence and conviction rates.*
- b) *For States Parties not having accepted Article 31, please provide updated information on the availability of adequate affordable housing for families.*
- c) *Are family or child benefits provided subject to a means-test? If so, what is the percentage of families covered?*
- d) *Please provide information about the amounts paid in child/family benefit as well as the median equivalised income for the reference period.*
- e) *Is there a length of residence requirement imposed on nationals of other States Parties lawfully resident in your country for eligibility to child/family benefits?*
- f) *What measures have been taken to ensure that vulnerable families can meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services)?*

- g) *If specific temporary measures were taken to financially support vulnerable families during the Covid-19 pandemic, will they or are they expected to they been maintained or withdrawn? If they have been withdrawn, what effect is this expected to have on vulnerable families?*
- h) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

## **Article 17 – The right of children and young persons to social, legal and economic protection**

### **Excerpts from the ECSR's case law**

The ECSR has noted with concern the increasing number of children in Europe registered as stateless, as this will have a serious impact on those children's access to basic rights and services such as education and healthcare. In 2015, UNHCR estimated the total number of stateless persons in Europe at 592,151 individuals. Therefore, the ECSR examines what measures have been taken by States Parties to reduce statelessness (such as ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and identifying children who were not registered at birth).

The prevalence of child poverty in a States Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection. 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. Therefore, the Committee will take child poverty levels into account when considering the state's obligations in terms of Article 17 of the Charter.

The Committee recalls that Article 17§2 of the Charter requires States Parties to establish and maintain an educational system that is both accessible and effective (Conclusions 2011). The Charter provides that the obligations under this provision may be met directly or through the involvement of private actors. The Committee notes further that in many states private education is also available.

The Committee is also mindful in this respect of the *Abidjan Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education*. It recalls that the requirement that States respect the freedom of parents to choose an educational institution other than a public institution leaves unchanged the obligation under the Charter to provide free quality public education. Similarly, the offer of educational alternatives by private actors must not be to detrimental to the allocation of resources or otherwise undermine the accessibility and quality of public education. Moreover, States are required to regulate and supervise private sector involvement in education strictly by making sure that the right to education is not undermined.

The closures of schools and other educational institutions during the pandemic have unmasked and exacerbated pre-existing inequalities in education, raising issues in terms of Articles 10, 15, 17, and Article E of the Charter. The necessary recourse to remote learning during lockdown periods has highlighted and exacerbated the issue of digital exclusion. There is a generalised risk of learning loss and a development gap that for many children, and also for a number of adolescents and adults, will be difficult if not impossible to make



up. In many instances, a move from face-to-face teaching has severely impacted on access to, and the quality of education enjoyed by, children with disabilities and special educational needs, with implications for Article 15 and Article 17 of the Charter.

Under Article 17§2 of the Charter equal access to education must be ensured for all children during the COVID-19 crisis. In this respect, particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children with disabilities, children in hospital, children in care, pregnant teenagers, children deprived of their liberty, etc.

**1. With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:**

- a) 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, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;**
- b) to protect children and young persons against negligence, violence or exploitation;**
- c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;**

*a) Please provide information on measures taken by the State to:*

- i) reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth) and*
- ii) facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular situation. (General question posed in Conclusions 2019).*

*b) Please provide information on measures taken to:*

- j) child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc.) and*
- ii) combat discrimination and promote equal opportunities for children from particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.*
- iii) States should also make clear the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.*

- c) *Please provide information on any measures adopted to protect and assist children in crisis situations and emergencies.*
- d) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.**

- a) *What measures have been taken to introduce anti-bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention? (General question, Conclusions 2019).*
- b) *What measures have been taken by the State to facilitate child participation across a broad range of decision-making and activities related to education (including in the context of children's specific learning environments)? (General question, Conclusions 2019).*
- c) *What measures have been taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children)?*
- d) *Please provide information on the measures taken to ensure that state allocation of resources to private education does not negatively impact on the right of all children to access free, quality public education (based on a Statement of Interpretation from Conclusions 2019).*
- e) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

## **Article 19 – The right of migrant workers and their families to protection and assistance**

**With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:**

- 1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;**
- 2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;**

3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;
4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
  - a) remuneration and other employment and working conditions;
  - b) membership of trade unions and enjoyment of the benefits of collective bargaining;
  - c) accommodation;
5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
10. to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;
11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;
12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

*No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

## **Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment**

### **Excerpts from the ECSR's case law**

The need to reconcile family life with teleworking from home, home-schooling of children and childcare during the Covid-19 pandemic combined with the stresses of potential Covid-19 health concerns, has led to serious pressures and challenges for many families, frequently with a disproportionate impact on women.

Faced with this situation, States Parties must take all necessary measures to apply and reinforce inter alia Article 27 notably through non-discrimination of workers with family responsibilities, childcare provision and the granting of parental leave arrangements).

**With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:**

**1. to take appropriate measures:**

- a) to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
- b) to take account of their needs in terms of conditions of employment and social security;
- c) to develop or promote services, public or private, in particular child day care services and other childcare arrangements;

a) *Please provide information on whether the Covid-19 crisis had an impact in particular on the possibilities for and the consequences of remote work on the right of workers with family responsibilities to equal opportunities and treatment.*

b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;**

a) *Please provide information on whether the Covid-19 crisis had an impact on the right to parental leave.*

b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.**

a) *Please provide information on whether the Covid-19 crisis had an impact on the prohibition of dismissal on the ground of family responsibilities and whether there were any exceptions to the prohibition of dismissal on the ground of family responsibilities during the pandemic.*

b) *Please explain whether a ceiling on compensation for unlawful dismissals was applied on the ground of family responsibilities during the Covid-19 crisis.*

- c) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

## **Article 31 – The right to housing**

### **Excerpts from the ECSR's case law**

The rights guaranteed by Article 31 of the Charter, have become even more crucial to right-holders during the pandemic. The crisis has highlighted the importance of the requirements of Article 31§1, notably that dwellings must be safe from a sanitary and health point of view (i.e. have all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity), and that they must not be overcrowded (i.e. the size of dwellings must be suitable in light of the number of persons and the composition of the household). These requirements are essential to prevention of, and protecting from, transmission of virus.

The ECSR notes that many States Parties have taken ad hoc measures to address homelessness providing emergency housing as required by Article 31§2 of the Charter and, in some cases, imposing moratoria on evictions. In this last respect, the ECSR recalls the key tenets of its interpretation of Article 31§2 of the Charter:

Evictions should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.

When evictions do take place, they must be carried out under conditions which respect the dignity of the persons concerned. Domestic law must prohibit evictions carried out at night or during the winter period. Domestic law must also provide for legal remedies and offer legal aid to those wishing to seek redress from the courts.

However, the COVID-related measures taken by States Parties to tackle homelessness have not always adequately reached or applied to all persons and families in need and they have generally been time-limited. The ECSR considers therefore that during a pandemic all evictions must be prohibited, except in the most exceptional and duly justified cases. If evictions must exceptionally be carried out, adequate alternative accommodation must be provided instantly.

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers. States Parties are required to provide adequate shelter to children irregularly present in their territory for as long as they are within their jurisdiction.

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.

**With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:**

**1. to promote access to housing of an adequate standard**

- a) *Please provide full, up-to-date information on the percentage of the population living in inadequate housing including overcrowded housing, and the practical measures taken to improve the situation.*
- b) *Please provide relevant and updated figures relating to the adequacy of housing (e.g. number of substandard dwellings; overcrowding, water, heating, sanitary facilities, electricity).*
- c) *Please provide information on the measures taken, in particular also during the Covid-19 crisis, to ensure adequate housing for vulnerable groups, including refugees, asylum seekers, Roma and Travellers.*
- d) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to all questions raised.*

**2. to prevent and reduce homelessness with a view to its gradual elimination;**

- a) *Please provide information on measures and actions, undertaken, in particular also during the Covid-19 crisis, to prevent categories of vulnerable people from becoming homeless.*
- b) *Please provide information whether the Covid-19 crisis had an impact on the prevention of homelessness. In particular address whether measures been taken:*
  - i) *to provide safe accommodation for persons in situation of homelessness. If so, how many persons were housed, in what form, where and for how long?*
  - ii) *to ensure that persons provided with temporary accommodation will have access to housing after the crisis.*
- c) *Please provide:*
  - i) *information on measures in place to reduce the number of homeless (e.g., measures aiming at raising the employment rate, increasing the stock of social and non-profit housing, allocating social benefits to those in urgent needs, developing social security programmes and supporting NGOs' activities) and*
  - ii) *figures on the overall number/rate of homeless persons.*
- d) *Has your country declared a moratorium/prohibition on evictions during the pandemic?*
  - i) *If so, indicate its legal basis and how long it will last.*

- ii) *Please specify if it is a general prohibition. Is the prohibition of evictions restricted to tenants or mortgage payers who have been unable to pay their rent or serve their mortgages, or broader?*
  - iii) *If no general prohibition on evictions was declared, please provide information on procedures in place to limit the risk of evictions and to ensure that when these do take place, they are carried out under conditions which respect the dignity of the persons concerned.*
  - iv) *Have any measures been taken to ensure that households are not cut-off from water, heat or other utility provision when they are unable to pay their bills? Please provide figures on the number of evictions carried out (tenant evictions, evictions from illegal camps or shanty towns, including those affecting camps in which Roma or Travellers are installed) and the cases brought for lack of alternative accommodation offered or compensation awarded.*
- e) *Please provide any information about:*
- i) *legal or financial measures taken aimed to ensure that households do not lose their home if they cannot pay their rent or mortgage payments and*
  - ii) *other tenant protection measures that have been adopted in response to the pandemic.*
- f) *Please provide any other information on whether the Covid-19 crisis had an impact on the right to shelter.*
- g) *Please explain whether emergency accommodation satisfied security requirements and health and hygiene standards and whether it was provided without the requirement for a residence permit and whether the applicable regulations provided for a prohibition on forced eviction. Does your country have sufficient quarantine facilities in place so that inadequate housing, such as overcrowding, does not increase the risk of infection?*
- h) *Please provide detailed information:*
- i) *on how the right to shelter of unaccompanied foreign minors is guaranteed in law and in practice and*
  - ii) *whether adequate shelter is guaranteed to children irregularly present for as long as they are within the jurisdiction.*
- i) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**3. to make the price of housing accessible to those without adequate resources.**

- a) Please provide information on measures taken to ensure that there is an adequate supply of affordable housing (e.g. through regulation of the property market).
- b) Please provide information whether and to what extent the Covid-19 crisis had an impact on adequate supply of affordable housing for persons with limited resources.
- c) With regard to social housing, please provide:
  - i) information on the number of applications for social housing introduced, granted and refused, as well as the main reasons for refusals;
  - ii) data on the average waiting time for the attribution of social housing. In this context, also explain whether judicial or other remedies were available in case of excessive waiting periods for the allocation of social housing;
  - iii) information concerning remedies where there was a failure to provide social housing at an affordable price for the poorest people and in the event of an excessively long waiting time before being allocated housing.
- d) Please provide data concerning the housing benefits, whether in the framework of the housing benefit system or in the framework of social assistance (e.g., number and categories of beneficiaries, number of housing benefits requests granted, refused, appealed, impact of benefits on affordability of housing).
- e) Please provide information on the measures taken throughout the country in relation to access for Roma and travellers to social housing.
- f) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.