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## **EUROPEAN SOCIAL CHARTER**

Comments submitted by  
the European Trade Union Confederation (ETUC)  
concerning the supervision cycle XXII-4 / 2023  
on 'Children, families and migrants'  
to the European Committee of Social Rights

Comments registered by the Secretariat  
on 20 July 2023

**CYCLE 2023**



## **Observations**

**by the European Trade Union Confederation (ETUC)  
concerning the supervision cycle XXII-4 / 2023  
on 'Children, families and migrants'**

**to the European Committee of Social Rights (ECSR)**

(Updated 20.7.2023)

## Overview

<b>GENERAL OBSERVATIONS.....</b>	<b>3</b>
INTRODUCTION .....	3
REPORTING OBLIGATIONS .....	3
<b>SPECIFIC OBSERVATIONS .....</b>	<b>5</b>
GENERAL INTRODUCTION .....	5
ALBANIA .....	8
ARMENIA .....	15
AUSTRIA .....	19
AZERBAIJAN.....	20
BOSNIA AND HERZEGOVINA .....	25
CROATIA .....	30
CYPRUS .....	38
CZECHIA.....	42
GEORGIA.....	45
GERMANY .....	46
HUNGARY .....	50
LATVIA.....	52
LITHUANIA .....	55
LUXEMBOURG.....	60
REPUBLIC OF MOLDOVA.....	61
MONTENEGRO .....	69
NETHERLANDS .....	72
NETHERLANDS ARUBA .....	77
NORTH MACEDONIA .....	79
NORWAY .....	85
SERBIA .....	87
SLOVAKIA .....	93
SLOVENIA.....	96
SPAIN .....	100
SWEDEN .....	109
TÜRKIYE.....	113
UKRAINE.....	120
UNITED KINGDOM .....	127
<b>TABLE OF CONTENTS.....</b>	<b>132</b>

## General observations

The European Social Charter (ESC) attributes a privileged role to the European Trade Union Confederation (ETUC) according to Article 27(2) ESC. That is why the ETUC would like to contribute to the supervisory system of the ESC by providing the European Committee of Social Rights (ECSR) with the information aimed at serving to get a fuller picture of the situation in the countries under supervision.

### *Introduction*

The ETUC fully supports the strengthening of the European Social Charter in general and its supervisory system in particular.<sup>1</sup> It is in this vein that the ETUC, for the second time, directly addresses its Observations to the ECSR.

The Observations mainly serve to assist the ECSR in fulfilling its supervisory tasks. Indeed, the ECSR has at several occasions made it clear that it attributes important weight to international standards in general and their assessments of the situations in individual countries in particular.

In its Digest 2018 the ECSR stated i.a.

Interpretation of the Charter in the light of other international instruments

The Committee interprets the Charter in the light of other international treaties which are relevant in the field of rights guaranteed by the Charter as well in light of the interpretation given to these treaties by their respective monitoring bodies.

Therefore, in relation to rights under Group 4 ‘Children, families and migrants’, the ETUC focuses its Observations on the compilation of the assessments of the following main supervisory bodies in relation to the articles at stake in this supervisory cycle:

- the United Nations (UN), i.e.
  - o the Committee on Economic, Social and Cultural Rights (CESCR),
  - o the Committee on the Elimination of Discrimination against Women (CEDAW)
  - o the Committee on the Rights of the Child (CRC)
- the International Labour Organisation (ILO), i.e. the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and
- the Council of Europe (CoE), i.e. the European Court of Human Rights (ECtHR)<sup>2</sup>.

### *Reporting obligations*

Before going into details on the specific information, the ETUC would like to make some general observations on the current state of the reporting obligations by Contracting Parties.

The ETUC is aware of the fact that the whole procedure has been examined by the GT-CHARTÉ and approved by the Committee on Ministers (CM) in relation to enhance the efficiency of the procedure

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<sup>1</sup> See i.a. [‘ETUC Resolution on the 60th Anniversary of the Council of Europe European Social Charter and the 25th Anniversary of the Revised’](#), adopted at the Executive Committee of 22-23 March 2021.

<sup>2</sup> The following compilation does not take account of other possibly relevant CoE materials, like those coming from other Committees or Recommendations either from the Committee of Ministers or the Parliamentary Assembly.

and to provide therefor some possible solutions. As privileged partner (Article 27(2) ESC), the ETUC strongly demands to be fully associated in this process.

At a more technical but nevertheless important level, the ETUC well understands the problem of workload in respect of the ECSR but also – and in particular – of the Secretariat which continues to be under-staffed already for a long period.

Against this background, the **ECSR** has reacted in several ways to reduce the workload. In line with its ‘targeted and strategic approach’ (adopted in 2019 and continued in 2020) and for the purpose of the Governments’ reports it has not asked that national reports address all accepted provisions in the Group. However, certain provisions could not be excluded from reporting:

- 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.

However, the **CM** in its decisions of 19 March and of 2/3 April 2014 required additional information in case of changes which occurred during the reference period:

Is 2. National reports should focus on ECSR Conclusions of non-conformity from the previous cycle as well as on questions raised. **In any case, additional information should be provided on changes occurred since the last report.**<sup>3</sup> (Emphasis added)

More generally, the **ESC** in its Article 21 requires reports in the following terms:

The Contracting Parties shall send to the Secretary General of the Council of Europe a report at two yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

This means that the current reporting system is not in line with the legal requirements of Article 21 ESC because the current four-years interval is contrary to the requested two-yearly interval for the periodicity of reports on ‘such provisions of Part II of the Charter as they have accepted’ i.e. all accepted provisions (and the competences of the CM are only related to the form not to the periodicity).

A reference to the ‘Turin’ Amending Protocol (1991) which allows the CM to define the reporting obligations more generally appears to be excluded because this Protocol has not yet legally entered into force (also because of the German Government’s refusal to ratify it). Moreover, it appears also excluded to refer to the CM’s decision allowing the application of the Turin Protocol if its wording is respected. However, the words ‘at **two** yearly intervals’ cannot be interpreted as allowing ‘**four** yearly intervals’. (Emphases added).

Accordingly, full reports on all accepted provisions should be provided at two-yearly intervals. Nevertheless, based on CM’s 2014 decisions the Governments’ reports should at least contain information on all accepted provisions in Group 3 if there are any changes during the reference period (2017 -2020).

The ETUC is also aware that this reporting cycle on thematic group 4 is the last reporting cycle under this “old” reporting system described above. Following the decisions of the CM, and the work by the ECSR and the Governmental Committee (in particular its dedicated Working Group on the Reform

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<sup>3</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805c6489](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c6489)

Process), the reporting as from 2024 will have to be done according to some new rules and principles, i.e.

- State Parties will have to submit a **short** report every two years, alternately covering accepted provisions from one of two groups of the Charter according to a division based on thematic or other criteria
- State Parties will only have to report to a limited number of targeted questions as defined by the ECSR (in cooperation with the Governmental Committee)
- The ECSR may address a limited number of specific questions to a State Party, but the number of themes or topics in one report will not exceed about a dozen
- The ECSR is also invited NOT to ask additional questions for response in a next report and finally
- State Parties that have accepted the collective complaints procedure shall be asked to submit only one short report on one of the two groups of provisions every four years.

Although on some points the new rules are closer aligned to the Charter obligations than in the previous system, the ETUC still has and would like to express its serious concerns as to whether this new system will enhance the effectiveness of reporting procedures and allow an increased coherence and comparability in addressing the different situations under the same articles across all State Parties concerned. The ETUC indeed fears that this new “simplification” of the procedures will rather have the reverse effect and impact.

## Specific observations

### *General introduction*

#### **General considerations**

Human rights protecting particular groups of persons like children, families and migrants are, like labour rights, rightly at the very heart of the ESC, as the members of the group often risk also to be (put) in a vulnerable situation. For the ETUC, it is therefore of utmost importance how the ECSR will ensure that also these rights are effectively respected, protected and fulfilled as well as violations are fully remedied throughout the Contracting Parties.

Several general elements could contribute to achieve this objective.

A first relates to interpretation. The ECSR has already shown in several decisions that it understands the ESC as ‘living instrument’ addressing new challenges while upholding its own principles. In general, it also underlines the need for effectiveness as well as for references to international law materials. For the latter, these Observations aim to serve as a point of (surely not exhaustive) references. These approaches could and – from the point of view of the ETUC should - be strengthened also in the reporting system.<sup>4</sup> In this vein, a few ‘General considerations’ were added at the beginning of specific provisions before going into the respective references from international law materials.

A further approach relates to enforcement. As the ECSR has done it already in several instances, a systematic approach to examine the effectiveness<sup>5</sup> of enforcement should be used for all ESC

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<sup>4</sup> For purposes of inspiration the ECSR might wish to take research into account, e.g. N Bruun, K Lörcher, I Schömann and S Clauwaert (eds.), *The European Social Charter and the Employment Relation*, (Oxford, Hart Publishing), 2017.

<sup>5</sup> See the for the principle of effectiveness the very instructive ‘Concurring Opinion of Judge Serghides’ (annexed to the ECtHR judgment 14.3.2023 – Nr. 57378/18 – [Georgiou v. Greece](#)).

provisions. This should include in particular judicial and administrative procedures requiring i.a. the respective financial and human resources to deal adequately with the implementation of all ESC rights. However, this is not limited to the 'normal' enforcement avenues. For example, for the problem of enforcing labour and social rights in the supply chain, the ECSR might wish to take into account in particular the UN CESCR's General Comment No. 24 (2017) on Human Rights and Business<sup>6</sup> as well as the respective Committee of Minister's Recommendation.<sup>7</sup>

At a more technical level, another element could be that the ECSR follows mainly UN Committees in requiring from States being examined under the respective Covenants or Conventions to require Governments that they should disseminate in particular the respective results of the examination (here: the 'Conclusions') to the public in an easily accessible and understandable way. Moreover, it is suggested that the ECSR issue also recommendations in relation to the

- effective inclusion of the ESC into the internal legal order of the Contracting Parties,
- ratification of relevant international instruments.

### **The sources for the references to international law material**

The sources referred to below are in principle limited to the reference period of 2018 – 2022 which thus largely covers and even goes beyond the reference periods on which State Parties had to report under this cycle<sup>8</sup>.

The information provided also only covers the countries concerned by this reporting cycle, so not those which have/had to provide only a 'simplified report' on the ECSR Decisions on the merits under the Collective Complaints Procedure Protocol.<sup>9</sup>

As much as possible the references are linked to a specific provision of the ESC. Nevertheless, there are still important overlaps because the respective UN and ILO Committees had sometimes to deal with a number of issues at the same time, thus making it difficult to separate them according to the ESC provisions. In so far as findings were easily separable, they were nevertheless attributed to the respective ESC provision. In case a State Party has ratified a specific UN or ILO instrument related to one of the rights at stake, but has however not ratified the related ESC provision, the information stemming from that UN or ILO case law has however as much as possible not be integrated in this compilation.

### ***UN Committees***

For reasons of practicality and volume, the following compilation will only include hyperlinks to Concluding Observations by UN Committees during the reference period. They concern:

- generally: Committee on Economic, Social and Cultural Rights (CESCR),<sup>10</sup>

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<sup>6</sup> <https://digitallibrary.un.org/record/1304491> (possibly taking also into account the work on the Draft Treaty on Business and Human Rights.

<sup>7</sup> Human Rights and business – [Recommendation CM/Rec\(2016\)3 of the Committee of Ministers to Member States \(2016\)](https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html). <https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html>

<sup>8</sup> For some international instruments, also observations/conclusions from 2023 where added where available and relevant.

<sup>9</sup> For this cycle, this concerns more in particular the following countries: Belgium, Bulgaria, Finland, France, Greece, Italy, Ireland and Portugal. .

<sup>10</sup> For the purpose of interpretation of Articles 7, 8, 16, 17 and 27 ESC it might specifically helpful to refer to 'General comment' No. 23 on Article 7 ICESCR (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), 7 April 2016, E/C.12/GC/23).

- specifically:
  - o Article 7 ESC: Committee on the Rights of the Child (CRC),
  - o Articles 8 and 27 ESC:<sup>11</sup> Committee on the Elimination of Discrimination against Women (CEDAW),
  - o Articles 16 and 17 ESC: Committee on the Rights of the Child (CRC)
  - o Article 19 ESC: Committee on Migrant Workers (CMW).

In particular for the Concluding Observations of the Committee on the Rights of the Child (CRC) and which provide a wealth of information and recommendations addressed to the State concerned related to the many issues covered by the ESC Articles 7, 16 (The right of the family to social, legal and economic protection) and 17 (The right of children and young persons to social, legal and economic protection), the ETUC limits itself by providing only the hyperlink. Relevant topics covered by this CRC Concluding Observations include: violence against children, child labour/exploitation/trafficking, family environment (incl. (child) care aspects), (social) housing/eviction, migrant/refugee children, standard of living (poverty), education, etc.

For more (possibly important) information concerning the case law of other UN Committees like the Committee on Elimination Racial of Discrimination (CERD) in relation to Article 19 ESC, see the respective UN Data basis.<sup>12</sup>

### ***ILO Committee on the Application of Conventions and Recommendations (CEACR)***

The following references contain ‘observations’ as well as (hyperlinks to) ‘direct requests’. In substance, they concern mainly the following Conventions for the purpose of

- Article 7 ESC:
  - o [C006 - Night Work of Young Persons \(Industry\) Convention, 1919 \(No. 6\)](#)
  - o [C077 - Medical Examination of Young Persons \(Industry\) Convention, 1946 \(No. 77\)](#)
  - o [C078 - Medical Examination of Young Persons \(Non-Industrial Occupations\) Convention, 1946 \(No. 78\)](#)
  - o [C079 - Night Work of Young Persons \(Non-Industrial Occupations\) Convention, 1946 \(No. 79\)](#)
  - o [C090 - Night Work of Young Persons \(Industry\) Convention \(Revised\), 1948 \(No. 90\)](#)
  - o [C138 - Minimum Age Convention, 1973 \(No. 138\)](#)
  - o [C182 - Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)
- Article 8 ESC - Maternity Protection<sup>13</sup>:
  - o [C003 - Maternity Protection Convention, 1919 \(No. 3\)](#)
  - o [C103 - Maternity Protection Convention \(Revised\), 1952 \(No. 103\)](#)
  - o [C183 - Maternity Protection Convention, 2000 \(No. 183\)](#)
- Article 19 ESC:
  - o [C097 - Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#)

<sup>11</sup> At least to some extent it might also be relevant in relation to Article 16 and 17 ESC.

<sup>12</sup> Treaty Bodies Database: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/TBSearch.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx).

<sup>13</sup> As for the protection of maternity, the ETUC would like to draw the attention of the ECSR to the most recent ILO International Labour Conference General Survey on “[Achieving Gender Equality at Work](#)” adopted at its 111<sup>th</sup> Session in 2023 and which looks at the following ILO instruments: General Survey on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Maternity Protection Convention, 2000 (No. 183), the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), the Workers with Family Responsibilities Recommendation, 1981 (No. 165) and the Maternity Protection Recommendation, 2000 (No. 191).



- o [C143 - Migrant Workers \(Supplementary Provisions\) Convention, 1975 \(No. 143\)](#)
- Article 27 ESC:
  - o [C156 - Workers with Family Responsibilities Convention, 1981 \(No. 156\)<sup>14</sup>](#)

### *CoE*

The compilation concentrates on cases decided by the ECtHR but includes also pending cases, i.e. communicated cases to the Governments concerned. The inclusion of the pending cases is aimed to provide the ECSR with information about problems which are to be considered as important because they have been examined by the highest national judicial instances (admissibility condition for the access to the ECtHR: 'exhaustion of domestic remedies'). All references mainly relate to Article 2 Additional Protocol N° 1 ECHR, Article 3, 4 and 8 (possibly in combination with e.g. Article 14 on discrimination) corresponding with mainly Article 17 ESC.

### **Presentation of the international case law**

According to the structure of the ECSR's Conclusions the presentation of the international case law follows the countries in alphabetical order.

## *Albania*

### **Article 7 - Protection of young persons**

#### *Convention N° 138 - Minimum Age Convention*

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Minimum Age Convention, 1973 \(No. 138\)](#)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the adoption of the Law No. 18/2017 on the right and protection of children which provides, among others, for the right of every child to free and quality education and the right to protection from economic exploitation. The Committee also noted the various measures in the field of social protection and inclusion; protection from all forms of violence, abuse and economic exploitation; and the right to quality and comprehensive education implemented under the Action Plan for Children 2012–15.

The Committee notes the information provided by the Government in its report that the Decision of the Council of Ministers No. 129 of 13 March 2019 (Decision No. 129) establishes the procedures for the identification, immediate assistance, and referral of economically exploited children. Following Decision No. 129, in 2019, the field teams on the identification of economically exploited children were set up in 22 municipalities. Some 272 working children were identified in 2019 by the field teams and 150 in 2020. The Government indicates that the identified children received the necessary services, including medical care and placement in social care institutions and day care centers. The Committee also notes the adoption of the National Action Plan for the Protection of Children from Economic Exploitation, including Children in Street Situations for 2019–2021 (National Action Plan for 2019–2021) by the Decision of the Council of Ministers No. 704 of 21 October 2019. According to the 2019 periodic report of Albania to the Committee on the Rights of the Child, the main objectives of the National Action Plan for 2019-2021 are the prevention of children's economic exploitation; protection based on the identified needs of the child; breaking the social and cultural barriers that provoke economic exploitation; and prosecution of the criminal cases related to the economic exploitation of children (CRC/C/ALB/5-6, paragraph 241). The Committee requests the Government to continue to

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<sup>14</sup> See footnote 14.

pursue its efforts to combat child labour and to provide information on the specific measures taken, particularly under the framework of the National Action Plan for 2019–2021, and the results achieved in this regard. The Committee further requests the Government to provide information on the application of the Convention in practice, including statistical data on the employment of children and young persons by age group and gender.

Article 2(1). Scope of application and labour inspection. Self-employed children or children working in the informal sector. The Committee previously noted that section 3(1) of the Labour Code and the Regulation “On the Protection of Children at Work Decision No 108/2017” exclude, from their applicability, children engaged in work outside of an employment agreement, such as self-employed children or those working in the informal sector. The Committee further noted the measures taken by the Government to strengthen the labour inspection system to effectively monitor and enforce labour legislation, including in cases of finding informal employment.

The Committee notes the indication by the Government that in 2019, the State Labour Inspectorate and Social Services (SLISS) identified 255 working children under 18 years of age (88 girls and 167 boys), most of whom were working in manufacturing and trade. In January-March 2021, the SLISS identified 17 working children under 18 years of age. The Committee also notes the elaboration of a guide for labour inspectors on the identification of child labour for its effective monitoring. The Government further indicates that in 2019, 118 labour inspectors received training on the application of Decision No. 129, according to which labour inspectors shall immediately report on identified cases of child labour to the child protection officer. The Government also indicates that, due to the new structure of the SLISS established by virtue of the Prime Minister’s Order No. 156 of 24 November 2020, the total number of employees of the SLISS has increased from 154 to 165. The Committee, however, notes its comments on the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) indicating the need to take measures to ensure the provision of suitably equipped offices and necessary transport facilities to labour inspectors and the low percentage of the inspection visits carried out in agriculture. The Committee requests the Government to continue to strengthen the functioning of the labour inspectorate to enable it to effectively monitor and detect cases of child labour, and prevent and remedy conditions that inspectors have reasonable cause to believe constitute a threat to the health or safety of children, including children working on their own account as well as in agriculture and the informal economy. It also requests the Government to provide statistical information on the number and nature of violations detected by the SLISS related to children engaged in child labour.

The Committee has noted similar and other concerns in its Observations in [2018](#).

### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

The Committee notes the observations of the Education International (EI), the Trade Union Federation of Education and Science of Albania (FSASH), and the Independent Trade Union of Education of Albania (SPASH) received on 3 September 2021.

Article 3(a) of the Convention. Sale and trafficking of children for commercial sexual exploitation. The Committee previously noted that, in its conclusions adopted in June 2015, the Conference Committee on the Application of Standards urged the Government to effectively enforce anti-trafficking legislation and to take measures for its effective implementation in practice. The Committee further noted that in 2016, 16 girls were identified as subject to sex trafficking.

The Committee notes the information provided by the Government in its report indicating a number of training activities on trafficking in persons conducted for police officers as well as their collaboration with the relevant child protection bodies. The Government also indicates that child-friendly facilities have been installed in several police stations to ensure qualitative interviewing of children, including victims of trafficking, adapted to their age. The Committee further takes note of the regulations issued for police officers on the treatment of child victims during the investigation.

The Committee notes the Government's information that in 2019, 67 potential child victims of trafficking were identified. The Government indicates that according to the data of the State Police, in 2019, 7 cases, involving 17 offenders, were identified under section 128(b) (trafficking of minors) of the Criminal Code. The Government further indicates that in 2019, there were 6 cases, involving 2 defendants, investigated by the General Prosecutor's Office and 2 persons convicted with 15 years of imprisonment by the Special Court of First Instance for Corruption and Organized Crime under section 128(b) of the Criminal Code. The Committee, however, notes that in its 2020 report concerning the implementation by Albania of the Council of Europe Convention on Action against Trafficking in Human Beings, the Group of Experts on Action against Trafficking in Human Beings (GRETA) expressed concern at the low number of convictions for trafficking in persons, including trafficking of children, and urged the Albanian authorities to take additional measures to ensure that cases of trafficking in persons are investigated proactively, prosecuted effectively, and lead to effective, proportionate and dissuasive sanctions (paragraphs 88, 89). The Committee further notes that the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its concluding observations, expressed deep concern that Albania is a source, transit and destination country for victims of trafficking, including for women and children subjected to sex trafficking and forced labour (CMW/C/ALB/CO/2, paragraph 69). The Committee urges the Government to continue to take the necessary measures to ensure that thorough investigations and prosecutions are carried out in respect of persons who engage in the trafficking of children, and that sufficiently effective and dissuasive penalties are imposed in practice. It further requests the Government to provide information on the application of section 128(b) of the Criminal Code in practice, including statistics on the number of investigations, prosecutions, convictions and penalties imposed.

Article 7(2). Effective and time-bound measures. Clauses (a) and (c). Preventing the engagement of children in the worst forms of child labour and ensuring their access to free basic education. Children from Roma and Egyptian communities. In its previous comments, the Committee noted that the Conference Committee had urged the Government to continue to remove barriers to greater participation of Roma and Egyptian children in the education system, including access to free basic education and access to education in their own language as well as to continue to take measures to stop trafficking and the practice of forced begging on the streets. The Committee further noted the various measures taken by the Government to improve the educational situation of Roma and Egyptian communities, including through facilitating enrolment in schools and the provision of free textbooks and scholarships for children of unemployed parents. The Committee, however, noted that many Roma and Egyptian children had never been enrolled, and the drop-out rates were still high.

The Committee notes the Government's indication regarding the measures taken to reduce the school dropout rate among Roma and Egyptian children, such as providing scholarships to children who dropped out of school or who are at risk of dropping out, providing free school transport and after school classes for children with learning difficulties. The Committee also observes the adoption of the Instruction of the Ministry of Education, Sports and Youth No. 17 of 9 May 2018 which establishes the procedures for returning children to compulsory school. The Committee further observes the elaboration in 2019 of the Guideline "For monitoring children that are out of the education system and

children that are at risk of dropping out” under the framework of the initiative “Every Child in school” supported by UNICEF. In particular, the Guideline provides for indications to educational institutions and other relevant actors on identifying children not attending compulsory school and preventing children from dropping out of school. The Government indicates the increase in the number of Roma and Egyptian children enrolled in school from 14,515 students in the 2019–20 school year to 14,875 students in the 2020–21 school year. In this respect, the Committee observes that the European Commission against Racism and Intolerance (ECRI) of the Council of Europe, in its 2020 Report on Albania, indicated that in comparison with 2011, the total number of Roma and Egyptian children enrolled in compulsory education increased from 48 per cent to 66 in 2018. The ECRI, however, noted the extremely low rate of compulsory education completion rates (43 per cent) by Roma and Egyptian children (paragraphs 43, 44). The Committee further notes the observations of the EI, the FSASH and the SPASH indicating that additional measures are needed to reduce school dropout rates, such as providing free meals to students from families with financial difficulties, including those from Roma and Egyptian communities. Moreover, teachers should be provided with additional remuneration for the work performed outside of school hours with students who have dropped out of school, their parents, and local government bodies. The Committee strongly encourages the Government to continue its efforts to facilitate access to free basic education of children in the Roma and Egyptian communities so as to prevent them from engaging in the worst forms of child labour. It also requests the Government to provide information on the measures taken in this regard and the results achieved, particularly with respect to increasing the school enrolment and completion rates and reducing school drop-out rates of children from Roma and Egyptian communities. To the extent possible, this information should be disaggregated by age and gender.

Clause (d). Identifying and reaching out to children at special risk. Street children. The Committee previously noted the various services provided to families of street children, including registration of each child in the National register of Civil Registry; enrolment in schools; employment of parents; placement in the social care institutions; and referral for attendance at day-care centres for children. The Committee also noted the awareness-raising programme on the protection of street children and the establishment of a Task Force in Tirana to identify and protect street children.

The Committee notes that the National Action Plan for the Protection of Children from Economic Exploitation for 2019–2021 (National Action Plan for 2019–2021) specifically covers children working on the streets. The Committee further observes from the 2019 periodic report of Albania to the Committee on the Rights of the Child that the on-site teams responsible for the identification process of street children, provision of first aid, and immediate referrals to the responsible case management structures were established in each municipality. The Government specifies in the 2019 periodic report that services provided by the on-site teams cover, among others, counselling, enrolment of children in school, financial assistance, and medical care. It further indicates several measures undertaken by the state police bodies against the economic exploitation of children, including child begging, as part of the efforts to protect street children. It points out that the number of cases of child exploitation for begging referred to the prosecution office has increased from 4 in 2012 to 15 in 2017 (paragraphs 247, 251). The Committee further notes from the information provided by the Government that, in 2020, 125 children in street situations were identified and provided with the necessary social protection services, such as psychological support, medical examination, and civil registration. The Government also indicates the establishment by the Tirana Municipal Council’s Decision No. 66 of 12 June 2020 of the Community Field Centre, which coordinates the provision of social protection services to children in street situations. The Committee requests the Government to continue to take measures to protect children in street situations from the worst forms of child labour and to provide for their rehabilitation and social integration. It further requests the Government to provide information on the effective and

time-bound measures taken in this regard, in particular under the framework of the National Action Plan for 2019–2021, and on the results achieved.

The Committee raised similar and other concerns in its Observations in [2018](#).

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

### ***International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families***

[CMW/C/ALB/CO/2: Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families - Concluding observations on the second periodic report of Albania \(2019\)](#)

In accordance with joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration, the Committee recommends that the State party:

[...]

(c) Take all measures necessary to prevent the emigration of unaccompanied migrant children and ensure that all migrant children and those affected by migration, including those returned, are protected against exploitation, violence, abuse and neglect, and other crimes, and that they receive reception and reintegration support;

[...]

The Committee notes that the State party has taken significant legislative, political and institutional measures to combat trafficking in persons and related practices, including the establishment of the National Task Force against Human Trafficking, the National Referral Mechanism, the National Anti-Trafficking Coordinator and the Office for Assistance to Victims, and the adoption of the National Strategy against Human Trafficking and its action plan 2018–2020, and the Action Plan for the Socioeconomic Reintegration of Women and Girl Victims of Trafficking, and the launch of the national contact line to facilitate the reporting of suspected cases of trafficking. The Committee is, however, deeply concerned that the State party is a source, transit and destination country for victims of trafficking, including for women and children subjected to sex trafficking and forced labour. The Committee is also concerned that:

(a) The measures taken by the State party to implement its legislative and administrative anti-trafficking framework remain insufficient, including in the areas of support for and identification, protection, referral, rehabilitation and social integration of victims of trafficking;

(b) The human, technical and financial resources allocated for the implementation of anti-trafficking measures are inadequate;

(c) There is a lack of data on trafficking in persons, including the number of investigations into and prosecutions and punishments of all acts of trafficking in persons, and other related offences.

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

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CMW/C/ALB/CO/2: Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families - Concluding observations on the second periodic report of Albania \(08 May 2019\)](#)

### ***International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families***

[CMW/C/ALB/CO/2: Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families - Concluding observations on the second periodic report of Albania \(2019\)](#)

The Committee notes with appreciation the measures taken as part of reintegration programmes to ensure that returned migrant workers and members of their families have access to health services. However, while noting that migrant workers in a regular situation have access to government-funded health services, the Committee is concerned that migrant workers in an irregular situation do not have such access, except to emergency health care.

The Committee recommends that, in accordance with articles 28 and 30 of the Convention, the State party adopt concrete and effective measures to ensure access to health-care services, including but not limited to emergency and urgent medical care, for all migrant workers and members of their families on the basis of equality of treatment with nationals.

[...]

While noting that the State party has signed several memorandums of understanding and entered into a number of bilateral agreements, the Committee is concerned that some of them do not adequately cover the provisions contained in the Convention.

The Committee recommends that the State party enter into agreements with the countries of employment with a view to better protecting the rights of Albanian migrant workers as provided for in the Convention, and facilitate the provision of appropriate consular and other services.

[...]

The Committee is concerned about the lack of information on the current legal framework applicable to migrant domestic workers and whether such workers and members of their families are able to enjoy their rights on an equal basis with nationals of the State party.

In the light of its [general comment No. 1 \(2011\) on migrant domestic workers](#), the Committee recommends that the State party cooperate with States of employment regarding frameworks and agreements for the protection of the rights of migrant domestic workers, and provide information in its next periodic report on the legal and policy measures taken to ensure that migrant domestic workers can fully enjoy their rights under the Convention.

[...]

The Committee remains concerned at the fact that undocumented migrant workers cannot join trade unions, despite the Committee's previous recommendations thereon ([CMW/C/ALB/CO/1, para. 30](#)).

The Committee recommends that the State party take all measures necessary, including legislative amendments, to guarantee that all migrant workers, including those in an irregular situation, may exercise the right to take part in trade union activities and to freely join trade unions, in accordance with article 26 of the Convention and the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

[...]

While noting that articles 55 and 56 of the Law on Foreigners provide for family reunification, the Committee is concerned that article 60 of the same law provides for the cancellation of residence permit for family reunification in cases of dissolution of marriage within five years from the issuing of the permit, or of death of a spouse within three years from the issuing of the permit, or when the right of legal guardianship of a child is terminated.

The Committee recommends that the State party take the measures necessary to ensure the protection of the unity of the family of migrant workers, including by adopting laws to ensure that residence permits of family members of migrant workers are not revoked in the event that the status of the ground on which the permits were issued changes.

[...]

The Committee notes that articles 121 and 127 of the Law on Foreigners provide for certain procedural guarantees for migrant workers in cases of detention. It is concerned, however, about the lack of information regarding measures to ensure that migrant workers and members of their families, in particular those in an irregular situation, are guaranteed due process on an equal basis with nationals of the State party.

The Committee recommends that the State party take the steps necessary to ensure that, in all administrative and judicial proceedings, including detention and expulsion proceedings, migrant workers and members of their families, particularly those in an irregular situation, are guaranteed due process on an equal basis with nationals of the State party.

[...]

The Committee takes note of the information provided by the State party in its replies to the list of issues (CMW/C/ALB/Q/2/Add.1), according to which it is possible to appeal against expulsion orders. It is, however, concerned about the lack of information on the extent to which migrant workers subject to expulsion proceedings make use of that right, and about the legal provisions guaranteeing the right to request the suspension of expulsion orders.

The Committee recommends that the State party take the steps necessary to ensure that migrant workers who are subject to an administrative deportation or expulsion order are aware of and able to exercise their right to appeal against the order. It also recommends that the State party take the steps necessary to ensure that administrative proceedings for deportation and expulsion are fully in accordance with articles 22 and 23 of the Convention.

[...]

While noting the measures taken to improve the legal and institutional framework to facilitate the voluntary return of Albanian migrant workers and members of their families, the Committee is concerned about the lack of dedicated reintegration policy measures in place. The Committee is also concerned about the lack of information on whether readmission agreements, including with the

European Union, include all substantive and procedural safeguards under the Convention, including the prohibition of collective expulsion.

The Committee recommends that the State party take effective measures to facilitate, in accordance with the principles of the Convention, the durable reintegration of returning migrant workers and members of their families into economic, social and cultural life in Albania. The State party should also ensure that its current and future readmission agreements and protocols with host countries guarantee the durable economic, social and cultural reintegration of migrants who return to the State party, contain substantive and procedural guarantees for them, and protect them from ill-treatment and other violations of their rights if they are expelled.

## ***Armenia***

### **Article 7 - Protection of young persons**

#### ***Convention N° 138 - Minimum Age Convention***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Minimum Age Convention, 1973 \(No. 138\)](#)

Article 2(1) of the Convention. Scope of application. The Committee previously noted that according to the Armenia Child Labour Survey, carried out with ILO technical assistance and published in 2016, a large number of children were involved in child labour, of which a large majority (90.1 per cent) worked in agriculture. Out of these children, only 5 per cent were employees with a verbal agreement, 25 per cent worked on their own account, and 70 per cent were unpaid family workers not covered by the provisions of the Labour Code concerning the minimum age for admission to employment. In this regard, the Committee urged the Government to take immediate steps to ensure that all children, including those who work outside a formal labour relationship, enjoy the protection afforded by the Convention. The Committee notes with regret that once again the Government's report does not provide information in this respect. Therefore, the Committee once again urges the Government to take all necessary measures to ensure that all children, particularly children working in the informal economy or as own-account workers, can enjoy the protection afforded by the Convention and to provide information in this regard in its next report.

Article 8 Artistic performances. In its previous comments, the Committee noted that part 2.2 of section 17 of the Labour Code provides that children under 14 years of age can be engaged in cinematographic, sport, theatre and concert organizations, in circuses, in creative work and/or performance of television and radio productions with the written consent of one of the parents or adopter or guardian or a custody and guardianship body. The activities in these organizations or productions should not be harmful to their health, morality or safety, or prejudice their education. The Committee requested the Government to take measures to ensure that the labour legislation provides that individual permits be granted by the competent authority, and not only by the parents or legal guardians to authorize the participation of children under the minimum age in artistic performances in accordance with the Convention. The Committee notes that the Government indicates that the Ministry of Labour and Social Issues has proposed to repeal part 2.2 of section 17 of the Labour Code. Taking note of this legislative proposal, the Committee recalls that Article 8 of the Convention allows exceptions to the prohibition of employment or work of children under the general minimum age, which is 16 years in Armenia. Moreover, by virtue of Article 8(1), children may participate in artistic performances, provided that permits are granted in individual cases by the competent authorities. In this regard, the



Committee requests the Government to continue to provide information on the measures taken or envisaged to regulate the participation of children in artistic performances.

Article 9(1). Penalties. The Committee previously noted the high number of children involved in child labour, including hazardous work and requested the Government to redouble its efforts to identify and impose appropriate sanctions for violations of the provisions of the Convention. The Committee notes that the Government indicates that, in order to ensure the effective application of the provisions of the Convention, section 41.6 of the Code on Administrative Offences of December 6, 1985 was amended. According to the amended section, the act of hiring or employing a person under the age of 16 in violation of the requirements of the law or involving a person under the age of 18 in work prohibited by the labour legislation shall result in a fine, which shall be equivalent to 200 times the minimum wage. If the violation is repeated within one year after the date of imposing the sanction, a new fine will be imposed amounting to 400 times the minimum wage. The Committee encourages the Government to continue taking measures to ensure that violations of the provisions of the Convention are detected and adequate penalties are imposed. In this respect, the Committee requests the Government to provide information on the application in practice of section 41.6 of the Code on Administrative Offences.

The Committee is raising other matters in observations in [2021](#) and [2018](#) and in requests addressed directly to the Government in [2021](#) and [2018](#).

### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

Article 3 of the Convention. Worst forms of child labour Clause (c). Use, procuring or offering of a child for illicit activities. The Committee previously noted the provisions of the Criminal Code (Articles 63 (5) and 165), which criminalize the involvement of persons under the age of 18 years in illicit activities. The Committee notes that the Government indicates in its report that, in 2016, three criminal cases were initiated for involving children in the commission of thefts. Two of these cases ended with acquittals and in one case the offender was sentenced to imprisonment. Likewise, in 2017, three criminal cases were opened concerning the involvement of children in the commission of crimes. In two of them, the offenders were sentenced to imprisonment. In 2018, one person was charged with involving a child in the selling of drugs and three persons were sentenced to imprisonment for involving children in committing thefts. In 2020, two criminal cases were initiated under article 165 of the Criminal Code which ended in acquittals. The Committee requests the Government to continue providing information on the number and nature of reported offences, investigations, prosecutions, convictions and criminal penalties imposed in respect of persons engaging children in illicit activities. In respect of the cases that have ended in acquittals, please provide information on the reasons for such acquittals.

Article 6. Programmes of action. In its previous comment, the Committee took note of the adoption of the 2016–2018 National Action Plan for Combating Human Trafficking and Exploitation and requested the Government to provide information on its implementation. The Committee notes that the Government indicates that, within the framework of the National Plan, awareness-raising activities against trafficking of children have been put in place in Yerevan and other regions of the country, and a legal guide was developed to support teachers in strengthening the capacities of students to avoid becoming victims of this crime. The Committee also notes that the Procedure for Providing Assistance to Potential Victims of Human Trafficking and Labour Exploitation, Victims and Special Category of Victims (Government Decision N492 - N of 5 May, 2016) was amended to establish a mechanism for

guidance of child victims of trafficking and effectively organize and control measures to protect children. Finally, the Committee notes that the Specialized Police Division of Armenia has issued instructions to the territorial police subdivisions relating to the prevention of labour exploitation of children and that police members have received the respective training. The Committee welcomes the measures taken by the Government to prevent the trafficking and labour exploitation of children and requests the Government to provide information on their impact.

Article 7. Penalties. The Committee previously urged the Government to take measures to ensure the effective implementation and enforcement of the provisions of the Convention. The Committee notes that the Government indicates that criminal investigation of cases of child trafficking are under the responsibility of prosecutors from the specialized subdivision of the Prosecutor General's Office who receive regular training on human trafficking and on the other worst forms of child labour. In reply to the Committee's previous request for information on the application of penal sanctions, the Committee notes the Government's indication that, under section 132.2 of the Criminal Code (trafficking or exploitation of a child), three persons were subject to criminal prosecution between 2016 and 2018, whereas one person was convicted in 2019. The Committee requests the Government to continue providing information on the measures taken to ensure the effective implementation and enforcement of the provisions of the Convention, including information on the application of penalties.

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the measures taken by the Government to ensure access to free and basic education, including measures to detect and monitor cases of children out-of-school and requested the Government to provide information on their results. The Committee notes the Government's indication that in 2021, a Procedure was adopted for identifying and directing children left out of compulsory education (Decision N154-N of February 2, 2021). The Procedure enlists situations when children are considered to be left out of compulsory education and aims to ensure that children have access to medical care, pedagogical and psychological support service and social assistance. The Committee observes that according to UNESCO statistics, the total number of out-of-school children was 17,789, whereas the total number of out-of-school adolescent was 18,864. Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to continue taking measures to ensure access to free basic education for all children and to provide information on the impact of the measures taken. The Committee also requests the Government to provide information on the implementation of the Procedure for identifying and directing children left out of compulsory education adopted in 2021 and its results.

Clause (d). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking. The Committee previously noted the adoption in 2014 of the Law on Identification and Support of Persons Subjected to Trafficking or Exploitation. The Committee notes that the Government indicates that this law was amended to remove the age limit for victims to receive financial support (previously set at 18 years). It also notes the Government's indication that victims receive assistance, including medical care and vocational training. In addition, the Ministry of Labour and Social Issues has implemented a program to support the social and psychological rehabilitation of victims of trafficking. Following the adoption of the 2014 law, ten children have been identified as victims of special category and ten children have received social assistance, and those who were not attending school are receiving education. The Committee requests the Government to continue providing information on the measures taken to ensure the rehabilitation and social integration of child victims of trafficking and their results. Please indicate the number of children who have been removed and provided with assistance.

The Committee also raised similar and other concerns in its Direct Request in [2018](#).

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

### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/ARM/CO/7: Committee on the Elimination of Discrimination against Women - Concluding observations on the seventh periodic report of Armenia \(2022\)](#)

The Committee welcomes the adoption of a national action plan on combating trafficking in persons for the period 2020–2022, as well as the development of a handbook for law enforcement officers on indicators of trafficking in persons to follow up on the action plan’s implementation, and the establishment of an inter agency anti-trafficking working group. However, the Committee notes with concern that the State party remains a country of origin for trafficking in women and girls for the purposes of sexual and labour exploitation.

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

### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/ARM/CO/7: Committee on the Elimination of Discrimination against Women - Concluding observations on the seventh periodic report of Armenia \(2022\)](#)

The Committee notes with concern:

[...]

(d) The limited opportunities for reconciling professional and family life, and the insufficient efforts to promote and ensure the equal sharing of domestic and child-rearing responsibilities between women and men, in particular during the COVID-19 pandemic;

Recalling that progress in the field of employment should go hand in hand with the empowerment of women and equality at work, the Committee recommends that the State party refocus its employment policies on the pursuit of gender equality and ensure that this is based on results, measurable indicators, partnerships with the private sector and opportunities for professional training in all areas, including innovative sectors such as the ICT sector. It also recalls its previous recommendations ([CEDAW/C/ARM/CO/5–6](#), para. 25) and recommends that the State party:

[...]

(e) Ensure that women working in the informal economy enjoy maternity protection, facilitate the return of young mothers to work, promote the equal sharing of domestic and childcare responsibilities between women and men, including by expanding the use of paternity leave, and introduce specific provisions on employer’s liability for discrimination against women in career development, recruitment, job promotion and vocational training;

## *Austria*

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

#### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/AUT/CO/9: Committee on the Elimination of Discrimination against Women -Concluding observations on the ninth periodic report of Austria \(2019\)](#)

The Committee notes with concern that:

(a) The State party remains a destination and transit country for trafficking in women and girls for purposes of sexual exploitation (95 per cent) and forced labour;

The Committee recommends that the State party:

(a) Intensify international, regional and bilateral cooperation with countries of origin, transit and destination, in particular with countries in the region, including by exchanging information and harmonizing legal procedures for prosecuting traffickers;

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

#### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/AUT/CO/9: Committee on the Elimination of Discrimination against Women -Concluding observations on the ninth periodic report of Austria \(2019\)](#)

The Committee remains concerned that:

[...]

(b) Programmes aimed at the social and economic integration of migrant, refugee and asylum-seeking women do not fully address the needs of all asylum-seeking and refugee women, in particular in relation to social and labour integration;

(c) The amendment to the Asylum Law that entered into force in 2016 introduced severe restrictions on the right to family reunification and that beneficiaries of subsidiary protection must wait for three years before their spouses or, in the case of minor children, parents can submit an application for family reunification;

In line with its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women and general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, the Committee recommends that the State party:

(b) Continue to apply a gender-sensitive approach in receiving refugee and asylum-seeking women and in considering asylum claims, thereby ensuring that the protection needs of asylum-seeking and refugee women and girls arriving in the State party are addressed as a priority concern;

(c) Reduce legal and administrative barriers to family reunification for women and men who are beneficiaries of international protection;

[...]

The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.

## ***Azerbaijan***

### **Article 7 - Protection of young persons –**

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/AZE/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Azerbaijan](#), 22 February 2023

#### ***International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families***

[CMW/C/AZE/CO/3: Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families - Concluding observations on the third periodic report of Azerbaijan \(2021\)](#)

The Committee notes the efforts taken to prevent and combat child labour; however, it is concerned about the lack of information about the extent of the phenomenon and the impact of the countermeasures taken.

The Committee recommends that the State party compile information on the extent of child labour, including of migrant children, with a view to establishing policies, strategies and enforcement mechanisms to ensure compliance of its legislative and policy framework with its obligations under the ILO Forced Labour Convention, 1930 (No. 29), the ILO Abolition of Forced Labour Convention, 1957 (No. 105) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

### ***Convention N° 138 - Minimum Age Convention***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Minimum Age Convention, 1973 \(No. 138\)](#)

Article 2(1) of the Convention. 1. Scope of application and the application of the Convention in practice. In its previous comments, the Committee observed that the provisions relating to the minimum age of admission to employment or work in the Labour Code did not appear to apply to work performed without an employment agreement, including self-employment or work in the informal sector. The Committee however noted the Government's statement that the Convention constitutes part of the labour legislation in the country and must therefore be implemented by all employers and private individuals. The Committee further noted the significant number of children involved in informal work in the agricultural sectors of tea, tobacco and cotton, including in hazardous situations, as well as children who work on their own account.

The Committee notes the Government's indication in its report that, various awareness-raising events on preventing child labour were conducted by the state labour inspectorate for employers, police officers, and students in 2020. The Government also indicates that in 2020, the police identified 21 cases of work performed by children without an employment agreement. In addition, three cases of the use of child labour were identified by the state labour inspectorate. In this connection, administrative fines of 3,000 Azerbaijani manats (AZN) were imposed on the employers for employing children under 15 years of age, in accordance with section 192.8 of the Code of Administrative Offences. However, the Committee once again observes that while a significant number of children are involved in informal work in the agricultural sectors of tea, tobacco and cotton, including in hazardous situations, only few cases of the use of child labour were identified by the state labour inspectorate and the police. The Committee requests the Government to take the necessary measures to ensure that the Convention is applied to children and young persons who perform work without an employment agreement including self-employment or work in the informal economy. Referring to its comments made under the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Committee once again urges the Government to take measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in the informal economy and on their own account, particularly in the agricultural sector. The Committee also requests the Government to provide information on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate and the police as well as the penalties imposed.

2. Minimum age for admission to employment or work. For many years, the Committee has been pointing out that the minimum age of 16 years for admission to employment or work specified upon the ratification of the Convention under its Article 2(1) is not established in the national legislation. In particular, section 42(3) of the Labour Code allows a person who has reached the age of 15 years to be part of an employment contract, and section 249(1) specifies that "persons who are under the age of 15 shall not be employed under any circumstances".

The Committee notes with concern that the relevant provisions of the Labour Code have not been amended with a view to raise the minimum age for admission to employment or work from 15 to 16 years. The Committee notes the Government's indication that raising the minimum age from 15 to 16 years would restrict the existing opportunity to work for children who have reached 15 years of age, which is the age of completion of compulsory education. Recalling that the Convention allows and encourages the raising of the minimum age but does not permit lowering of the minimum age once specified, the Committee once again urges the Government to take the necessary measures, without further delay, to ensure the establishment of a minimum age of 16 years for admission to employment or work in the Labour Code.

### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

[- Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

Article 6 of the Convention. Programmes of action. National action plan to combat trafficking in persons. In its previous comments, the Committee noted various measures taken to provide assistance and protect child victims of trafficking within the framework of the National Action Plan against Trafficking in Persons for 2014–18. The Committee requested the Government to continue its efforts to combat child trafficking through the adoption of programmes and plans of action.

The Committee observes the adoption of the National Action Plan against Trafficking in Persons (NAP) for 2020–2024, which aims, amongst others, at: (i) improving the legislative and institutional

framework, (ii) ensuring effective prosecution of the offence of trafficking in persons, (iii) strengthening international cooperation, and iv) raising awareness on trafficking in persons. The Committee further observes that section 4.5 of the NAP for 2020–2024 in particular, provides for a number of activities to strengthen the protection of child victims or potential child victims of trafficking. The Committee requests the Government to provide information on the implementation of the NAP for 2020-2024, including the concrete measures taken and the results achieved with respect to the prevention and elimination of trafficking of children.

Article 7. Clause (b). Effective and time-bound measures. Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Sale and trafficking of children. The Committee previously noted that the Centre for Victims of Trafficking in Persons, under the authority of the Ministry of Labour and Social Protection, offers various forms of help to people in need of legal, psychological and medical aid, and other types of assistance. The Committee further noted the adoption of the Programme for the Social Rehabilitation of Child Trafficking Victims. The Government also indicated that it was in the process of improving its recording system on statistics of trafficking in persons cases, involving victims under the age of 18 years.

The Committee notes the measures indicated by the Government in its report to provide assistance to child victims of trafficking. In particular, in 2020, 22 child victims of trafficking were enrolled in preschool programmes; 56 children were provided with school supplies; 18 children received assistance in obtaining birth certificates; and 15 children were helped to obtain recognition of paternity and receive maintenance payments. The Committee further observes the 2020 Government's periodic report submitted to the United Nations Committee on the Rights of the Child indicating the development of a unified database on Combating Trafficking in Persons in the Main Department Ministry of Internal Affairs that is used for keeping the records regarding child victims of trafficking (CRC/C/AZE/5-6, paragraph 223). The Committee requests the Government to continue to provide information on the number of child victims of trafficking under the age of 18 years who have been identified and provided with assistance, including those who were successfully reintegrated.

Clause (d). Children at special risk. 1. Street children. The Committee previously noted that more than 90 per cent of all street children in Azerbaijan were concentrated in the Baku area and the majority came from rural areas and that most of them did not have a birth certificate and only a small number attended school. The Committee noted the measures taken by the Government to provide children deprived of parental care with accommodation. The Government also indicated the opening of a new social shelter for abandoned, neglected or at-risk children in the near future.

The Committee notes the Government's indication that over the first six months of 2021, 370 children begging in the streets were identified and administrative penalties were imposed on the parents who coaxed their children into begging. The Government also indicates that the Social and Rehabilitation Institute and Shelter for the Vulnerable Population Group was founded by the Cabinet of Ministers Decision No. 337 of 30 July 2019. The Committee further observes that the Action Plan for the Implementation of the Strategy on Children for 2020–2025 adopted by the President's Decree No. 2306 of November 2020 envisages a number of measures aimed at the identification and the rehabilitation of abandoned and vulnerable children and strengthening the social protection of such children. The Committee encourages the Government to pursue its efforts to protect all vulnerable children, including street children, from the worst forms of child labour and to provide for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard, particularly within the framework of the Action Plan for the Implementation of the Strategy on Children for 2020 – 2025. It further requests the Government to

continue to provide information on the number of street children who are identified and the types of social assistance provided.

2. Refugee and displaced children. The Committee noted that Azerbaijan is home to a large displaced population with over 1 million refugees, internally displaced persons and families seeking asylum. It further noted that refugee and internally displaced children face a high risk of labour exploitation and trafficking, poverty, and discrimination in access to education.

The Committee notes with regret an absence of information from the Government in this respect. The Committee observes in the Government's report submitted to the United Nations Human Rights Council on 16 February 2018 in the context of the Universal Periodic Review, the measures taken to improve the situation of refugees and internally displaced persons, such as the building of new schools and cultural centres, the provision of accommodation and social allowances as well as employment promotion activities. The Government also indicated that children of refugees and internally displaced persons are provided with textbooks and teaching aids free of charge (A/HRC/WG.6/30/AZE/1, paragraphs 145, 194–201). The Committee further notes from the Report of the United Nations High Commissioner for Refugees published in May 2018 that by virtue of the Presidential Decree No. 1257 of 2017, the Guardianship and Custody authorities are tasked with protecting the rights and interest of the unaccompanied children in the asylum process. In addition, the Committee observes that the Action Plan on Implementation of the Strategy on Children for 2020–2025 provides for measures on ensuring education, health and social rights of refugee and asylum-seeking children (section 5.3.17). The Committee requests the Government to pursue its efforts to protect refugee and displaced children from the worst forms of child labour, particularly by ensuring their access to free, quality basic education. It requests the Government to provide information on the measures taken in this regard and the results achieved, particularly with respect to the implementation of the activities under the Action Plan for the Implementation of the Strategy on Children for 2020 – 2025.

### ***Convention N° 77 - Medical Examination of Young Persons (Industry) Convention, 1946***

- [Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Medical Examination of Young Persons \(Industry\) Convention, 1946 \(No. 77\)](#)

Article 2(3) of the Convention. Medical certificate issued subject to specified conditions of employment or for a specified job. In its previous comments, the Committee noted that the type of medical examinations that young workers may undergo depends upon the type of hazards they encounter. In this respect, Decision of the Ministry of Health No. 46 of 2012 on Improving Compulsory Medical Examinations contains a list of jobs which require specific preliminary or periodic medical examinations. The Committee requested the Government to indicate if the medical certificate of fitness for employment can prescribe specific conditions of employment or be issued for a specific job or group of jobs involving similar health risks which have been classified as a group by the competent authority.

The Committee notes the Government's indication in its report that the Rules for Compulsory Medical Examinations approved by the Decision of the Ministry of Health No. 24/2 of 2014 establish the procedure for specific preliminary and periodic medical examinations for the jobs indicated in Decision No. 46 of 2012 (for example, underground work, work in the food industry or transportation). The Committee observes that, according to the Rules for Compulsory Medical Examinations, the medical certificate of fitness for employment is issued based on the results of a particular preliminary medical examination for the jobs specified in Decision No. 46 of 2012.



Article 6(2). Cooperation between the various services established for the vocational guidance and rehabilitation of children and young persons found unsuited for work. The Committee previously requested the Government to provide information on the cooperation and effective liaison between the labour, health, educational and social services established for the vocational guidance and physical and vocational rehabilitation of children and young persons found unsuited for work. In this regard, the Committee observes that, pursuant to section 11 of the Act No. 1153-VQ of May 31, 2018 on the Rights of Persons with Disabilities, an individual rehabilitation program is elaborated for children with disabilities, which aims at their medical, psychological, pedagogical, and vocational rehabilitation. The Committee also observes that the State Agency for Medical and Social Expertise and Rehabilitation coordinates the activities of the relevant state and local self-government bodies and legal entities for the purpose of rehabilitation of persons with disabilities (section 3.1.24 of the Charter of the State Agency for Medical and Social Expertise and Rehabilitation of 2020).

## **Article 8 - The right of employed women to protection**

### **[International Convention on the Elimination of Discrimination against Women](#)**

**[CEDAW/C/AZE/CO/6: Committee on the Elimination of Discrimination against Women - Concluding observations on the sixth periodic report of Azerbaijan \(2022\)](#)**

The Committee notes with concern:

[...]

(e) The concentration of women in the informal economy and in low-paid jobs, often in exploitative conditions and without access to labour and social protection, especially since the COVID-19 pandemic;

Recalling that progress in employment should go hand in hand with the empowerment of women and equality at work, the Committee recommends that the State party refocus its employment policy on gender equality and ensure that it is based on results, measurable indicators, partnerships with the private sector and opportunities for professional training in all areas, including innovative sectors such as the information and communications technology sector. The Committee also recalls its previous recommendations (CEDAW/C/AZE/CO/5, para. 31) and recommends that the State party:

(d) Ensure maternity protection for women working in the informal economy; facilitate the return to work of young mothers; promote equal sharing of household and childcare responsibilities between women and men, including by expanding the use of paternity leave; and introduce specific provisions on employer's liability for discrimination against women in career development, recruitment, job promotion and vocational training;

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/AZE/CO/5-6 Committee of the Right of the Child **[Concluding observations on the combined fifth and sixth periodic reports of Azerbaijan](#)**, 22 February 2023

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

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/AZE/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Azerbaijan](#), 22 February 2023

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

### **Council of Europe – European Convention on Human Rights**

[European Court of Human Rights, judgement 7 October 2021 no. 20116/12, Zoletic and Others v. Azerbaijan](#)

[Failure to conduct effective investigation into migrant workers' arguable claims of cross-border human trafficking and forced labour: violation of Article 4 § 2 under its procedural limb.](#)

## ***Bosnia and Herzegovina***

In general terms, it is suggested to take into account the following Concluding Observations of CESCR via the following link:

[E/C.12/BIH/CO/3: Committee on Economic, Social and Cultural Rights: Concluding observations on the third periodic report of Bosnia and Herzegovina \(11 November 2021\)](#)

## **Article 7 - Protection of young persons**

### **International Convention on the Rights of the Child**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/BIH/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Bosnia and Herzegovina \(05 December 2019\)](#)

### ***Convention N° 138 - Minimum Age Convention***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Minimum Age Convention, 1973 \(No. 138\)](#)

Article 3(2) of the Convention. Determination of hazardous work. 1. Federation of Bosnia and Herzegovina (FBiH). In its previous comments, the Committee noted that pursuant to section 57 of the Labour Law of the FBiH No. 26/16 of 2016, underage persons may not be assigned to any physically demanding work, underground or underwater work, or any other work likely to create a hazard or increased risk to their life, health, development or morale, taking into account their mental and physical characteristics. The Committee further noted that a by-law that shall define the types of work referred to in section 57 of the Labour Law had not been adopted. The Committee notes with regret that according to the information provided by the Government in its report, such a by-law has not been adopted yet. Observing that it has been raising this issue since 2005, the Committee once again urges the Government to take the necessary measures to ensure, pursuant to section 57 of the Labour Law of the FBiH, that a list of activities and occupations prohibited for persons below 18 years of age

is adopted, after consultation with the employers' and workers' organizations concerned, in accordance with Article 3(2) of the Convention. It requests the Government to provide information on any progress made in this regard.

2. Brčko District. The Committee previously noted that section 41 of the Labour Law of the Brčko District No. 19/06 of 2006 provides that underage persons may not be assigned to any dangerous or demanding work, underground or underwater work, or any other work likely to pose a hazard or jeopardize their life, health, physical development or morale, and that these types of work shall be regulated under collective agreements. The Committee requested the Government to provide information on the progress made in adopting the list of types of work prohibited to children and young persons under 18 years of age, as well as on the types of work prescribed by collective agreements.

The Committee notes with regret an absence of information in the Government's report in this respect. The Committee further notes that pursuant to section 75(1) of the new Labour Law of the Brčko District No. 34/19 of 2019, employees under the age of 18 may not be assigned to any physically demanding work, underground or underwater work, work carried out at a height, or any other work likely to create a hazard or increased risk to their life, health, development or morale, taking into account their mental and physical characteristics. Observing that it has been raising this issue since 2005, the Committee urges the Government to take the necessary measures to adopt a regulation determining the types of hazardous work prohibited for persons under the age of 18 years, after consultation with the employers' and workers' organizations concerned, in accordance with Article 3(2) of the Convention. It requests the Government to provide information on any progress made in this regard.

The Committee reminds the Government that it may avail itself of ILO technical assistance in order to facilitate the application of the Convention.

The Committee is raising other matters in a [request](#) addressed directly to the Government.

### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

Articles 3(a) and 7(1) of the Convention. Trafficking of children and penalties. The Committee observes that pursuant to the Criminal Code of Bosnia and Herzegovina of 27 June 2003, transnational trafficking (section 185(2)) and organized transnational trafficking of persons under 18 years of age (section 186(2)) are criminal offences. Furthermore, section 210(a)(2) of the Criminal Code of the Federation of Bosnia and Herzegovina of 9 July 2003, section 146 of the Criminal Code of the Republika Srpska of 2017, and section 207(a)(2) of the Criminal Code of the Brčko District of 2003 penalize trafficking of children. The Committee observes from the 2018–20 Reports of the State Coordinator for Combating Trafficking in Human Beings that there were two persons convicted under section 207(a)(2) of the Criminal Code of the Brčko District in 2017 and two persons convicted under section 146 of the Criminal Code of the Republika Srpska in 2018. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observations, expressed concern about the low rate of prosecutions and convictions of the trafficking and exploitation of children and urged the Government to strengthen training for law enforcement officers at all levels to investigate all cases of child trafficking and to ensure that the perpetrators of those criminal offences are prosecuted and adequately punished at all levels of jurisdiction (CRC/C/BIH/CO/5-6, paragraph 46). The Committee recalls that, under Article 7(1) of the Convention, the Government is obliged to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to

the Convention, including the provision and application of penal sanctions. The Committee therefore requests the Government to ensure that persons involved in the trafficking of children are investigated and prosecuted and that sufficiently effective and dissuasive sanctions are imposed upon them. The Committee requests the Government to provide information on training sessions for law enforcement officers addressed to investigating child trafficking and apprehending perpetrators, including the number, nature, and duration of sessions and the number of officers attending. It also requests the Government to provide statistical data on the abovementioned sections of the Criminal Codes concerning the trafficking of children, including statistics on the number of investigations, prosecutions, convictions and penalties imposed.

The Committee is raising other matters in a [request](#) addressed directly to the Government.

***Convention N° 90 - Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Night Work of Young Persons \(Industry\) Convention \(Revised\), 1948 \(No. 90\)](#)

Article 1(1) and (2) of the Convention. Definition of “industrial undertaking”. Federation of Bosnia and Herzegovina (FBiH). The Committee previously noted that the Labour Law of the FBiH No. 62 of 2015 (Labour Law of the FBiH, 2015) prohibits minors from performing particularly hard manual labour, underground or underwater works, or other jobs, which could have a harmful effect or pose increased risks to their life and health, development or morality, given their psychological and physical capacities (section 57(1)). In addition, section 42(1) of the Labour Law of the FBiH, 2015 prohibits night work of minors, and section 42(2) states that for minors employed in industry, “night work” includes work between 7 p.m. and 7 a.m. According to section 42(5), the Federal Minister of Labour and Social Policy shall prescribe the activities considered to be industrial in terms of night work for minors by virtue of a Rulebook.

The Committee notes with regret the Government’s reply in its report that the Rulebook, pursuant to section 42(5) of the Labour Law of the FBiH, 2015, has not been adopted yet. The Committee also takes note of the Government’s intention to harmonize the national legislation with the Convention on this point. The Committee therefore once again expresses the firm hope that a Rulebook, prescribing the activities considered as industrial for night work for minors and which will take into account the compliance with Article 1(1) and (2) of the Convention will be adopted in the near future. The Committee requests the Government to provide information on any progress made in this regard.

Brčko District. The Committee previously noted the Government’s statement that in the Brčko District, activities that fall under the term “industrial undertakings” are regulated by collective agreements based on the laws regulating agricultural, commercial and other activities and which determine the boundary that separates industry from other activities. The Committee requested the Government to clarify whether the classification by collective agreement in the Brčko District includes all the activities mentioned under Article 1(1) of the Convention, in particular activities related to mining and quarrying.

The Committee notes an absence of information in the Government’s report in this respect. The Committee observes, however, that section 2(a) of the new Labour Law of the Brčko District No. 34/19 of 2019 (the Labour Law of the Brčko District, 2019) defines the term “employer” as a domestic or foreign legal entity or entrepreneur who employs persons in accordance with the Labour Law. The Committee observes therefore that an employer is determined regardless of the business performed and that the prohibition on night work of young persons under the age of 18 years set out by section

57(1) of the Labour Law of the Brčko District, 2019 is applied in industry and in other branches of business activities. The Committee further observes that the Classification of Activities in Bosnia and Herzegovina of 8 June, 2010 (KD BiH 2010) includes the activities established by Article 1(1) of the Convention.

Articles 2(1) and 3(1) of the Convention. Period during which night work is prohibited for persons under 18 years. Republika Srpska. The Committee previously noted that section 72(1) of the Labour Law of the Republika Srpska, 2015, read in conjunction with section 70(2), prohibits the night work of young persons under the age of 18 years between 7 p.m. and 6 a.m., that is for a period of 11 consecutive hours, which is inconsistent with Article 2(1) of the Convention. The Committee recalled that Article 2(1) of the Convention, read in conjunction with Article 3(1), stipulates that the prohibition on night work of young persons under the age of 18 years shall constitute a period of at least 12 consecutive hours.

The Committee notes with regret the indication by the Government, according to which there were no changes during the reporting period in this respect. The Committee once again requests the Government to take the necessary measures to bring the Labour Law of the Republika Srpska, 2015 into line with Articles 2(1) and 3(1) of the Convention thereby prohibiting night work of a period of at least 12 consecutive hours for young persons under the age of 18 years.

Articles 4(2) and 5. Exemptions from the prohibition of night work of persons of 16–18 years of age in case of emergencies. FBiH, Republika Srpska and Brčko District. The Committee previously noted with regret that the Labour Law of the FBiH, 2015 and the Labour Law of the Republika Srpska, 2015 had not taken into account the Committee's comments related to the age of young persons for whom temporary exceptions from the prohibition of night work in case of emergencies may be granted, according to Articles 4(2) and 5 of the Convention. In particular, the Committee observed that the exceptions from the prohibition of night work under section 42(4) of the Labour Law of the FBiH, 2015 refer to minor employees (between 15 and 18 years of age), and under section 72(2) of the Labour Law of the Republika Srpska, 2015, apply to workers younger than 18 years of age. In addition, the Committee noted that section 28(3) of the Labour Law of the Brčko District No. 19/06 of 2006 exempted temporarily minor employees (between 15 and 18 years of age) from night work in case of major breakdowns and force majeure, based on the approval of the competent authority of the canton. The Committee recalled that pursuant to Articles 4(2) and 5 of the Convention, the prohibition of night work shall not apply or may be suspended only with regard to young persons between the ages of 16 and 18 years in case of emergencies.

The Committee notes with regret that the new Labour Law of the Brčko District, 2019 did not take into account the Committee's comments on this matter. In particular, section 57(2) of the Labour Law of the Brčko District, 2019 allows minor employees under the age of 18 years to be temporarily exempted from the prohibition of night work in the event of elimination of the consequences of force majeure and accidents or for the purpose of protection of general interests, based on the approval of the labor inspector. The Committee further notes the indication by the Government that the Committee's comments will be taken into consideration during the next review of the Labour Law of the FBiH, 2015. The Government also indicates that in the Republika Srpska and the Brčko District, there were no cases of the work carried out at night by young persons under 18 years of age in case of emergencies. The Committee once again requests the Governments of the FBiH, the Republika Srpska and the Brčko District to take the necessary measures to ensure that the exemption on the prohibition of night work shall be applicable only to children between the ages of 16 and 18 years in accordance with Article 4(2) in case of emergencies which could not have been controlled or foreseen or suspended in

accordance with Article 5 when in case of serious emergency, the public interest demands it. The Committee requests the Government to provide information on any measures taken in this regard.

### **Articles 8 - Maternity Protection - and 27 - Workers with Family Responsibilities-**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CEDAW/C/BIH/CO/6: Committee on the Elimination of Discrimination against Women: Concluding observations on the sixth periodic report of Bosnia and Herzegovina \(12 November 2019\)](#)

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/BIH/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Bosnia and Herzegovina \(05 December 2019\)](#)

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/BIH/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Bosnia and Herzegovina \(05 December 2019\)](#)

#### ***International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families***

[CMW/C/BIH/CO/3: Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families - Concluding observations on the third periodic report of Bosnia and Herzegovina \(2019\)](#)

The Committee is deeply concerned that, despite the efforts taken to prevent and combat the phenomenon, the State party remains a source, transit and destination country for the smuggling of migrants, and for victims of trafficking, including women and children, in particular Roma children.

Reiterating its previous recommendations ([CMW/C/BIH/CO/2](#), para. 48), and in accordance with the Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights, the Committee recommends that the State party:

- (a) Adopt effective measures to detect, prevent and curtail irregular flows of migrant workers, and investigate, prosecute and punish criminal groups responsible for the smuggling of migrants and other related offences;

(b) Bring its national criminal law framework for the offence of trafficking in persons fully into line with international standards, including the Council of Europe Convention on Action against Trafficking in Human Beings and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and specifically criminalize the sale of children;

(c) Take effective measures, with clear time frames, indicators, and monitoring and evaluation benchmarks, to implement its legislative and administrative framework to prevent and combat trafficking in persons, in particular by strengthening mechanisms for the early identification of victims of trafficking, including training for law enforcement and border officials, judges, prosecutors and lawyers throughout the Entities of the State party, and for providing support for and referral, rehabilitation and social integration of trafficking victims, such as by providing shelters and legal, medical and psychosocial assistance, and allocate sufficient human, technical and financial resources for the implementation of anti-trafficking measures;

(d) Include in its next periodic report detailed data on trafficking and smuggling of migrants, including for the purposes of sexual exploitation and forced labour, the number of prosecutions and convictions, and the sentences imposed.

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/BIH/CO/6: Committee on the Elimination of Discrimination against Women - Concluding observations on the sixth periodic report of Bosnia and Herzegovina \(2019\)](#)

The Committee notes with concern:

(a) The high number of women and girls subject to trafficking for purposes of sexual exploitation and forced labour, including begging, especially among the Roma population;

[...]

The Committee reiterates its previous recommendations (CEDAW/C/BIH/ CO/4-5, paras. 24 and 26) and urges the State party:

(a) To address the root causes of trafficking by enhancing educational and economic opportunities for women and girls and their families, in particular among the Roma community, thereby reducing their vulnerability to exploitation by traffickers;

(b) To assess the impact of the action plan for combating trafficking in persons for the period 2016–2019 and adopt a subsequent plan with adequate funding for its effective implementation;

## ***Croatia***

### **Article 7 - Protection of young persons**

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/HRV/CO/5-6 – Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Croatia](#) (22 June 2022)



**Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)**

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

Article 3 of the Convention. Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. Following its previous comments, the Committee notes that the Government does not provide information in its report on the practical application of its legislation criminalizing the use, procuring or offering of children for illicit activities, in particular the production or trafficking of drugs. The Committee once again requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offences committed under section 190(3) of the Criminal Act related to the use of children under the age of 18 years for the production and trafficking of drugs.

Article 5. Monitoring mechanisms. The Committee notes the Government's information that the National Referral System consists of the National Anti-Trafficking Coordinator, of the National Committee for Combatting Trafficking and its operational team and, since 2019, of the Labour Inspectorate. The National Referral System manages all activities from the identification of the victims of trafficking to their full integration into society and is based on cooperation and exchange of information among competent state administration bodies, public institutions, and the NGOs. The Committee requests the Government to provide detailed information on the activities carried out by the National Referral System to monitor the trafficking of children for labour and commercial sexual exploitation, and on the results achieved.

Article 6. Programmes of action to eliminate the worst forms of child labour. Trafficking. Following its previous comments, the Committee notes the Government's detailed information regarding the measures taken to prevent child trafficking. In particular, the Government indicates that the National Plan for Combating Trafficking in Human Beings 2018–2021 covered all aspects of combating trafficking in human beings and included preventive actions and public awareness-raising of the recruitment of victims of trafficking through the Internet, with a specific focus on women and children. The Committee also notes the information provided by the Government regarding various awareness-raising measures, and on the National SOS Line for Combating Trafficking in Human Beings which operates daily.

Furthermore, the Committee notes, from the Report of the Group of Experts on Action against Trafficking in Human Beings concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia, 2020 (GRETA Report), that the Government adopted a new Action Plan 2019–2020 for the Implementation of the National Roma Integration Strategy 2013–2020, which included the issue of human trafficking (para. 160). One of the aims of the Action Plan is to enable persons from Roma communities to recognize the threats of human trafficking, sexual exploitation and other forms of violence, with a particular focus on women and children, through measures that include training programmes and awareness-raising. The Committee requests the Government to continue providing information on the measures taken to combat the trafficking of children for the purpose of labour or sexual exploitation, and the results achieved. In particular, it requests the Government to indicate whether a new National Action Plan to combat trafficking in human beings is being developed and/or implemented. It also requests the Government to provide information on the results achieved through the Action Plan 2019–2020 – as well as through any new plan or programme - on the protection of particularly vulnerable Roma children from sale and trafficking.



Article 7(2)(a). Effective and time-bound measures. Preventing the engagement of children in the worst forms of child labour. Roma children. In its previous comments, the Committee noted that considerable improvement had been achieved in designing, implementing, monitoring and evaluating both the mainstream and targeted measures to integrate Roma children, particularly in the area of education.

The Committee notes, according to the Fifth Opinion on Croatia by the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) of the Council of Europe (1 February 2021, para. 81), that Croatian authorities continue implementing policies aimed at improving the living conditions and social inclusion of the Roma by further developing the National Roma Inclusion Strategy (NRIS) 2013–20. The Government indicates that the monitoring of activities and measures of NRIS is regularly carried out by the Ministry of Education and Science, and reported annually by the National Office for Human Rights and National Minorities. Regular reports show significant positive developments in the field of education of members of the Roma national minority, including as regards the number of students enrolled in the secondary education system. The Government indicates, for example, that the Ministry of Science and Education provides additional classes for Roma national minority students, which is important for the successful completion of primary education. Moreover, the secondary education system includes an increasing number of students, and student scholarships and literacy and training programmes are being provided. Finally, the resources allocated by the Ministry of Science and Education to the achievement of national policy measures for Roma education have increased significantly.

The Committee further notes that the ACFC commended the introduction of free pre-school education in the year preceding enrolment in primary school with an emphasis on language instruction and the fact that the number of Roma children enrolling in compulsory pre-primary school programmes is as high as in the general population (95 per cent). However, it also took note of continued reports of de facto segregation of Roma children in the education sector and about the lack of opportunities to receive instruction in their languages, as well as of the negative impact of the Covid-19 pandemic on equal access to education for Roma children (paras 184–200). While noting the measures taken by the Government, the Committee requests the Government to continue its efforts to facilitate access of Roma children to free, quality basic education. It further requests the Government to continue to provide information on the measures taken in this regard and on the results achieved, particularly with regard to improving the functioning of the education system, increasing the school enrolment rates and reducing the school drop-out rates of Roma children. To the extent possible, this information should be disaggregated by age and gender.

Article 7(2)(b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking. The Committee previously noted, among other measures, that four mobile teams operating at the local level in Zagreb, Rijeka, Split and Osijek, cooperate with the local police to identify victims of trafficking and organize their referral to assistance.

The Committee notes the Government's information that, according to the statistics of the Ministry of Interior (Mol) and of the Office for Human Rights and Rights of National Minorities, 30 child victims of trafficking were identified between 2017 and 2020. The Government indicates that three new protocols were adopted to assist victims of trafficking, namely the Protocol on identification, assistance and protection of victims of human trafficking (Protocol I) and the Protocol on the procedures during the voluntary return of victims of human trafficking in 2017, as well as the Protocol on the integration/reintegration of victims of trafficking in human beings in 2019. The Government indicates, in particular, that Protocol I is implemented by the Mol, who cooperates with civil society organizations and mobile teams to identify victims of trafficking. Where the victim is a child, a mobile team

coordinator must act as representative of the social welfare system, and the victim must decide whether they will accept the aid and protection programme offered to them within 90 days of identification. Aid and protection programmes include medical and psycho-social protection, safe accommodation, translation and interpretation services and legal aid. The Committee also takes note of the detailed information communicated by the Government regarding the measures taken to protect migrant and asylum seeker child victims from any type of abuse and violence, including a right to support services.

The Committee notes, however, various concerns mentioned in the GRETA Report, including the lack of training for mobile team members and, the lack of state funding for the so far voluntary work of specialized NGOs participating in the mobile teams (paras 176–187). The Committee encourages the Government to strengthen its efforts to protect children from sale and trafficking. It requests the Government to continue providing statistical information on the number of child victims of trafficking under the age of 18 who have been identified and provided services and assistance by the various agencies, including the operational team and the four mobile teams at the local level.

Clause (d). Identifying and reaching out to children at special risk. 1. Children engaged in begging. Following its previous comments, the Committee notes the Government's information that, according to available data, there were no recorded cases of children under 14 years being used for begging in 2020. According to data from the MoI in 2020, five children over the age of 14 were found begging. The Government indicates that begging with children is a relatively regular occurrence in major cities, especially in Zagreb. While police officers are continuously taking measures to prevent children from being used for begging, responsible State bodies have not been able to completely eradicate this unwanted social phenomenon. The Committee encourages the Government to take effective and time-bound measures to protect children engaged in begging from the worst forms of child labour. It also requests the Government to continue providing information on the number of children engaged in begging who have been identified, rehabilitated and socially integrated through such measures.

2. Absconding and unaccompanied children. The Committee previously noted that there had been an increase in the number of runaway children and unaccompanied minors, who disappeared from the reception centres for asylum seekers within days of being placed. It noted the Government's indication that there was an ongoing process of de-institutionalization and placing children with foster parents.

The Committee notes the Government's indication that the new Foster Care Act (OG No 115/18) – which enables the accommodation of unaccompanied children with foster families – entered into force in 2019. According to the GRETA Report, pursuant to the Foster Care Act, professional assistance and support in foster care is provided by social welfare centres, social care homes and community service centres. The Ordinance on the manner and duration of foster carers' training and additional training stipulates that applicants who have expressed an interest in accommodating an unaccompanied foreign child or young adult must undergo additional training, which includes issues such as children in migration, interculturalism and intercultural competences in the care of an unaccompanied child, specificities of victims of trafficking, and preparation of unaccompanied children transitioning to adulthood for leaving foster care (para. 155).

The Committee notes, however, that according to the GRETA report, since 2015, the Ministry of the Interior has identified over 1,000 children as unaccompanied and separated (319 in 2016, 541 in 2017 and 156 in the first 10 months of 2018) (para. 196). The GRETA report highlights the particular vulnerability of children placed in childcare institutions, as well as the links between institutional care and child trafficking. It also raises concerns about alleged failings of the guardianship system for unaccompanied children, including the fact that, due to the heavy workload of social workers and

language barriers, the role of the guardian was only formal and without real involvement in the procedure for protecting the best interests of the child. In some cases, an adult from the migrant group with which the child had arrived in Croatia was appointed as guardian, thus risking the appointment of a person who traffics or exploits the child as his/her guardian (para. 197). The Committee requests the Government to strengthen its efforts to protect unaccompanied children from falling victims to the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.

The Committee raised similar and other concerns in its Direct Requests in [2018](#).

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/HRV/CO/5-6 – Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Croatia](#) (22 June 2022)

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/HRV/CO/5-6 – Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Croatia](#) (22 June 2022)

### **[Council of Europe – European Convention on Human Rights](#)**

[European Court of Human Rights, judgment 25 June 2020 no. 60561/14S, S.M. v. Croatia \[GC\]](#)

[Significant flaws in domestic procedural response to arguable claim of human trafficking and forced prostitution, supported by prima facie evidence: violation of Article 4 ECHR.](#)

[European Court of Human Rights, judgment 4 May 2021, no. 54711/15, Jurcic v. Croatia](#)

[Stressing that a refusal to employ or recognise an employment-related benefit to a pregnant woman based on her pregnancy, amounts to direct discrimination on grounds of sex, the Court concluded that the difference in treatment of the applicant had not been objectively justified, leading to a violation of Article 14 \(prohibition of discrimination\) of the European Convention on Human Rights read in conjunction with Article 1 of Protocol No. 1 \(protection of property\) to the Convention.](#)

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

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CMW/C/BIH/CO/3: Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Concluding observations on the third periodic report of Bosnia and Herzegovina \(04 November 2019\)](#)

## **Article 27 - Workers with Family Responsibilities**

### ***Convention N° 156 - Workers with Family Responsibilities Convention***

- [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\), Workers with Family Responsibilities Convention](#), 1981 (No. 156)

Article 3 of the Convention. National policy. In its previous comment, the Committee asked the Government to provide information on the application of the Maternity and Parental Benefits Act, 2008 and the results achieved under the National Policy for the Promotion of Gender Equality in order to promote equality of treatment and opportunity of workers with family responsibilities. The Committee notes with interest the Government's indication that amendments to the Maternity and Parental Benefits Act adopted in 2013, 2014 and 2017, provide, in particular, for a prohibition on transferring two months of parental leave to another parent in order to encourage fathers to use their rights to parental leave; reinforcement of the protection of employment of pregnant women or women who have given birth, up to 12 months after the birth of the child; and an increase in the financial benefits. Since 2017, the maximum amount of benefit paid during the period of parental leave has increased from 80 to 120 per cent of the monthly minimum wage for employed parents and from 50 to 70 per cent for unemployed parents or employed parents not meeting the statutory period of insurance. Similarly, benefits for parents of children in need of special care were also improved. In this regard, the Committee notes that, according to Eurostat's data cited in "Gender Equality Policies in Croatia – Update", 2017 by the Policy Department on Citizen's Rights and Constitutional Affairs of the European Parliament, "the share of family/children benefits in Croatia" stands at €155 per inhabitant, i.e. at the lower end of the European Union (EU) scale, well below the EU average of €651, and represents only 7.2 per cent of the total social benefits costs. The Committee also notes that the National Gender Equality Policy 2011–15 has expired and that, according to the information provided by the Government, a new Policy is being developed but, to date, has not yet been adopted. The Government indicates, however, that the relevant authorities, in cooperation with key stakeholders and the social partners, are developing new measures to harmonize professional and private life as part of the initiative of the European Pillar on Social Rights (Croatia became a member of the EU on 1 July 2013). The Committee notes the Government's statement that, in line with developments at the European level, it has set a long-term goal of adopting appropriate measures in the field of family policy. In view of the above, the Committee requests the Government to continue to provide information, including statistics disaggregated by sex, on the practical application of the Maternity and Parental Benefits Act, 2008, as well as the measures taken under the new National Policy for the Promotion of Gender Equality in order to actively promote equality of treatment and opportunity of workers with family responsibilities, and the results achieved. The Committee also asks the Government to provide information on the family policy measures adopted, in consultation with the social partners, in order to harmonize professional and private life. The Committee asks the Government to continue to provide information on any cases of discrimination related to family responsibilities dealt with by the Office of the Ombudperson or the courts.

Article 4. Leave entitlements for men and women workers with family responsibilities. The Committee recalls that, according to section 12(1), (2) and (5) of the Maternity and Parental Benefits Act of 2008, an employed or a self-employed mother has the right to maternity leave from 28 days before birth until the child turns 6 months, of which 28 days before birth and 42 days after birth are mandatory;

and the days of maternity leave beyond this mandatory period to be taken by the mother, can be taken by the father as paternity leave if the parents reach an agreement to do so. In its previous comment, the Committee asked the Government to provide statistical information on the extent to which men and women workers made use of the maternity and parental leave entitlements under the Act, both in the public and private sectors. It also asked the Government to provide information on any measures taken with regard to other immediate family members. The Committee notes, from the statistics provided by the Government in its report, that in the period 2015 to 2017 the ratio of men accessing maternity/paternity leave (beyond the mandatory period in the first 6 months of the child) and parental leave (after the child turns 6 months) remained very low and stable, at approximately 0.3 per cent for maternity leave and under 4.5 per cent for parental leave. The Committee also notes that, in her 2017 report, the Ombudsperson for Gender Equality underlined that Croatia is the European Union Member where fathers use maternity and parental support the least, emphasized that the measures for harmonization of professional and family life are still insufficiently implemented and recommended the introduction of compulsory father's leave. Noting that, even where policies allow sharing of parental leave, in practice mothers still take the majority of this period, the Committee asks the Government to provide information on positive measures envisaged or taken, such as the ones suggested by the Ombudsperson, to increase effectively the percentage of men's take-up of paternity leave. In this regard, the Committee asks the Government to continue to provide statistical information, disaggregated by sex, on the extent to which men and women workers make use of the leave entitlements under the relevant provisions of the Maternity and Parental Benefits Act of 2008, both in the public and private sectors. Noting that the Government's report is silent on this point, the Committee reiterates its request to the Government to provide information on any measures taken with regard to other immediate family members and their implementation.

Working-time arrangements. In its previous comment, the Committee requested the Government to provide information on the practical application of section 16 (on part-time work) of the Maternity and Parental Benefits Act of 2008 and on the number of beneficiaries of the right to part-time work in circumstances where children require extra care and attention for growth; as well as information on any other flexible working-time arrangements. It notes the Government's statement that Croatia has not yet developed a suitable legislative framework for balancing private and professional life and that, consequently, there are no flexible working-time arrangements, job-sharing or teleworking possibilities specifically designed for working parents. The statistics provided by the Government show that the number of parents using this right is low: 112 parents in 2015 (7.1 per cent of men); 80 in 2016 (2.5 per cent of men) and 71 in 2017 (1.4 per cent of men). In this regard, the Committee notes that, if only women make use of such flexible working arrangement to continue to shoulder the majority of unpaid care work, there is a risk of reinforcing stereotypes about gender roles. The Committee asks the Government to continue to provide information, including statistical information disaggregated by sex, on the beneficiaries of the right to part-time work as well as on any measures adopted or envisaged relating to flexible working time arrangements taking into account that certain working time arrangements often penalize women in terms of earnings and career development.

Article 5. Childcare and family services and facilities. Previously, the Committee asked the Government to provide detailed information on the manner in which family centres assist parents to reconcile work and family responsibilities and to indicate the impact of the intergenerational solidarity programme on reconciling work and family responsibilities in relation to dependent members of their family other than children. The Committee notes the Government's indication that there are family centres established in 19 counties, providing services for children and young people, parents, partners and future parents, children with developmental problems, persons with disabilities and their families, and other socially vulnerable groups (such as unemployed persons, the elderly, drug addicts, victims of

violence, etc.) and that all services are provided free of charge. It notes the Government's statement that the implementation of the intergenerational solidarity programme was discontinued as from 1 May 2014. Home-care services are now provided by licensed social services providers. Living-room services, which had been implemented under the discontinued programme, were replaced by day-care activities for older people financed on a project basis. In 2017, a call for projects of organized day-care activities in local communities was made and 92 projects were funded for a total of 5,075,448 Croatian kuna (HRK) (approximately US\$770.000). The Committee also notes that the report indicates that, based on the results of an analysis of the accessibility, quality, capacity and funding of early childhood and preschool education services, the Ministry of Demography, Family, Youth and Social Policy issued a call for projects to expand and improve the network of kindergartens and to harmonize the opening hours of preschool institutions with the working hours of parents. In this regard, it notes that, according to a study entitled "Gender Equality Policies in Croatia – Update", 2017, by the Policy Department on Citizen's Rights and Constitutional Affairs of the European Parliament, only 9.5 per cent of children under 3 years of age have access to formal childcare due to the lack of available childcare facilities. Due to gender stereotypes, it is most often employed mothers who have to take leave without pay after the expiration of paid parental leave – which has a detrimental impact on their careers – or else have recourse to the informal economy or to the family in order to care for the child. According to Eurostat data, women are up to five times more inclined to take a part-time job because of the obligation to look after children or incapacitated adult family members, and the wage gap between men and women is gradually deepening over time due to maternity leaves or care of family members. In this regard, the Committee notes the Government's indication that, in 2013, the Act on Nannies was adopted to create a transparent and legally secure system of non-institutional childcare with registered childcare givers ("nannies"), supervised by the Ministry of Demography, Family, Youth and Social Policy. The Committee asks the Government to continue to provide information on childcare and family services and facilities, in particular on the response to the Ministry of Demography, Family, Youth and Social Policy call for projects to expand and improve the network of kindergartens and to harmonize the opening hours of preschool institutions with the working hours of parents. It also requests information on the number of nannies registered following the adoption of the Act on Nannies 2013.

Article 6. Information and education. Considering the low number of fathers exercising their right to parental benefits, the Committee asked the Government to provide information on the specific measures taken to promote a broader public understanding of various aspects of employment of workers with family responsibilities, and the need for a more equitable sharing of family responsibilities between men and women, as well as the results achieved by such measures. It notes the Government's statement that a public call for projects targeting family support and the promotion of children's rights was made in 2017, focusing, inter alia, on support for single-parent families and for employed parents and fostering father's active parental role and involvement in family life. It further notes the information provided on the various projects that were funded with a view to changing the deeply rooted stereotypes about gender division of roles, fostering reconciliation between business and family responsibilities, and encouraging a more equal distribution of household and parental responsibilities. The Committee notes that the Government indicates that the level of awareness of the population on the opportunities and rights to maternity/paternity and parental leave has been raised but does not provide evidence in support of this statement. In this regard, the Committee wishes to emphasize the importance of collecting good gender-disaggregated data taking into account variables such as marital or parenthood status, number of children, of older persons, presence of persons with disabilities or living with HIV, as it allows the Government to periodically assess progress and also to design policies and monitor outcomes to establish what works for workers with family

responsibilities. The Committee asks the Government to continue to provide information on the proactive measures taken to promote a broader public understanding of the need for a more equitable sharing of family responsibilities between men and women, with a particular focus on fathers, as well as the results achieved by such measures, including statistical data.

Article 7. Integration in the labour force. Recalling that it had asked the Government to provide information on the implementation of the right to return to work after maternity, parental or adoption leave or leave for caring for a child with severe development issues (section 36 of the new Labour Act of 2014, previously section 73), the Committee notes that the statistical information provided by the Government does not identify the number of employees who returned to work after such leave, nor does it provide the requested information on the practical application of the right to vocational training in situations where there is any change in technology or working methods during the leave. Noting the Government's indication that labour inspectors have identified several cases of offences against the above-mentioned provision as well as section 34 of the new Labour Code (prohibition of dismissal), the Committee asks, once again, the Government to provide statistical information on the number of employees who returned to work after taking maternity, parental or adoption leave or leave for caring for a child with severe developmental difficulties; and to provide information on any measures taken or envisaged to enable both male and female workers with family responsibilities to become or remain integrated in the labour force, as well as to re-enter the labour force after an absence due to family responsibilities.

Article 9. Application of the Convention by collective agreements. The Committee notes the information provided, in reply to its previous comment, according to which certain collective agreements contain provisions regarding the right to nursing breaks and rests considered as working time; the possibility for the employer to assign work to be carried out at home for mothers with a child up to 6 years of age, or a single parent with a child up to 10 years of age; additional leave days to be granted to parents, foster parents or guardians (based on different parameters); and the prohibition to terminate or modify the employment contract of specific categories of workers such as a woman nursing a baby, parent, foster parent or guardian until the child's seventh year, a single parent of a minor, a parent with three or more children up to 15 years or children in regular education, or the parent of a child with developmental difficulties. The Committee asks the Government to continue to provide information on the measures provided under collective agreements with a view to reconciling work and family responsibilities and their effective application.

Article 11. Workers' and employers' organizations. The Committee requests the Government to provide information on the specific measures taken to promote social dialogue and tripartite cooperation in order to strengthen the laws, measures and policies giving effect to the Convention, and on the manner in which workers' and employers' organizations have exercised their right to participate in the design and implementation of such measures, including through the adoption and implementation of workplace policies on work and family reconciliation.

## *Cyprus*

### **Article 7 - Protection of young persons**

#### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/CYP/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Cyprus](#) (24 June 2022)

## **Article 8 - Maternity Protection -**

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/CYP/CO/8: Committee on the Elimination of Discrimination against Women - Concluding observations on the eighth periodic report of Cyprus \(2018\)](#)

The Committee is concerned about:

[...]

(d) The persistent discrimination in the labour market against mothers and pregnant women in relation to hiring, career advancement, conditions of employment, pay and denial of paid maternity leave, particularly in the private sector, and, despite the new legislation on paternity leave, the periods of parental leave taken by men, which remain insignificant;

The Committee recommends that the State party:

[...]

(e) Enforce the Equal Treatment of Men and Women in Employment and Vocational Training (Amendment) Law and the Protection of Maternity (Amendment) Law to ensure that mothers and pregnant women are not discriminated against in relation to hiring, career advancement, conditions of employment, pay and denial of paid maternity leave, particularly in the private sector;

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

### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/CYP/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Cyprus](#) (24 June 2022)

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

### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/CYP/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Cyprus](#) (24 June 2022)

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

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/CYP/CO/8: Committee on the Elimination of Discrimination against Women - Concluding observations on the eighth periodic report of Cyprus \(2018\)](#)



The Committee is concerned about:

- (a) The continued exploitation faced by women migrant domestic workers and the difficulties they encounter in changing employers;
- (b) The obstacles impeding access to justice for women migrant domestic workers, including the fear of detention and deportation while legal proceedings are pending;
- (c) The lack of regular labour inspections to monitor the working conditions and employment contracts of women migrant domestic workers.

The Committee, in line with its general recommendation No. 26 (2008) on women migrant workers, recommends that the State party:

- (a) Adopt a specific law regulating domestic employment, with adequate sanctions for employers engaging in abusive practices;
- (b) Continue to raise awareness among women migrant domestic workers of their rights under the Convention, including in a language that they can understand, and monitor the activities of employment agencies;
- (c) Enforce the right of women migrant domestic workers to change employers legally and ensure regular labour inspections of workplaces and employment contracts;
- (d) Establish effective complaint procedures to enable women migrant domestic workers to lodge complaints against their employers without fear of reprisals, arrest, detention or deportation;
- (e) Strengthen the welfare services and assistance provided to women migrant domestic workers who are victims of abuse and exploitation, including legal assistance, medical and psychosocial care and adequate shelters, and ensure that such services and assistance are gender-responsive and accessible to all women migrant domestic workers, including those who are undocumented;
- (f) Ratify the ILO Domestic Workers Convention, 2011 (No. 189).

[...]

The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

***Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention***

[Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\) Migration for Employment Convention \(Revised\), 1949 \(No. 97\) \(Ratification: 1960\), Migrant Workers \(Supplementary Provisions\) Convention, 1975 \(No. 143\)](#)

In order to provide a comprehensive view of certain issues relating to the application of the ratified Conventions on migrant workers, the Committee considers it appropriate to examine Conventions Nos 97 (migration for employment) and 143 (migrant workers) together.

Article 6 of Convention No. 97 and Articles 10 and 12 of Convention No. 143. Equality of opportunity and treatment. The Committee previously noted the adoption of new legislation to guarantee equality

of treatment between national and migrant workers. It notes the Government's indication, in its report, that the social security scheme covers every person gainfully occupied and does not make any distinction between nationals and non-nationals. Furthermore pensions paid by the social security scheme are exported to the beneficiaries who reside abroad without any restrictions. Referring to its previous comments, the Committee notes that the Government did not provide any information on the nature and impact of measures taken to implement the Action Plan for the Integration of Immigrants who are Legally Residing in Cyprus (2010–2012) and the Strategy on the Employment of Foreign Workers of 2007. While noting that such programmes do not seem to have been extended, the Committee refers to its 2019 observation on the application of both the Equal Remuneration Convention, 1951 (No.100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), where it notes that several United Nations (UN) treaty bodies expressed concern about the discrimination experienced by migrant workers, inter alia, in accessing employment, as well as the increasing discriminatory attitudes and racial stereotypes relating to persons of foreign origin. Recalling that it previously noted the precarious situation and vulnerability of migrant domestic workers, the majority of whom are women, as well as the absence of a monitoring system of their working conditions, the Committee notes that migrant domestic workers are still limited to two changes of employer over a six-year period and that change of sector is only possible with the approval of the Minister of the Interior. It notes that, in their 2018 and 2017 concluding observations respectively, the UN Committee on the Elimination of Discrimination against Women (CEDAW) and the UN Committee on the Elimination of Racial Discrimination (CERD) remained concerned about: (i) the persistent exploitation faced by migrant domestic workers and the difficulties they encounter in changing employers; (ii) the obstacles impeding access to justice for women migrant domestic workers, including the fear of detention and deportation while legal proceedings are pending; as well as (iii) the lack of regular labour inspections to monitor the working conditions and employment contracts of women migrant domestic workers (CEDAW/C/CYP/CO/8, 25 July 2018, paragraph 38, and CERD/C/CYP/CO/23-24, 2 June 2017, paragraph 22). In this regard, the Committee notes that, in the report it made in the context of the Universal Periodic Review (UPR), the Government indicated that the ratification of the Domestic Workers Convention, 2011 (No. 189), was under consideration (A/HRC/WG.6/32/CYP/1, 13 November 2018, paragraph 8). The Committee further notes that, in April 2019, the Human Rights Council, in the context of the UPR, recommended that the Government take concrete actions to strengthen the capacity of labour inspectors and the police to improve oversight of the working conditions of domestic workers and prevent them from labour exploitation (A/HRC/41/15, 5 April 2019, paragraph 139). Noting from Eurostat that, in 2018, the highest number of first-time asylum seeker applicants relative to the population was recorded in Cyprus, where their number rose by more than 70 per cent, the Committee notes that several UN treaty bodies expressed specific concern at the differential treatment and the very limited range of employment opportunities of asylum seekers, who are allowed to work only in certain sectors, mostly in remote areas without adequate transport or accommodation provided, and receive some welfare benefits in the form of vouchers. They called on the Government to guarantee asylum seekers equal labour rights and equal rights to welfare benefits (CEDAW/C/CYP/CO/8, 25 July 2018, paragraph 36; CERD/C/CYP/CO/23-24, 2 June 2017, paragraphs 17 and 20; and E/C.12/CYP/CO/6, 28 October 2016, paragraphs 15 and 16). In that regard, the Committee notes that, in 2016, the Ombudsman highlighted the harsh situation facing young African women seeking asylum, whose welfare grants were interrupted when they refused to take up jobs in agriculture or livestock farms, where they would have to reside on the farm, possibly in the same accommodation with men and without childcare facilities while being pregnant or with infants. While the report of the Ombudsman concluded that the current policy framework leads to indirect discrimination on multiple grounds, the policy of forcing asylum seekers to accept the worst jobs in the labour market persists in spite of the Ombudsman's recommendations (European Commission, Country report on non-discrimination, Cyprus, 2018, page 74). Referring to its 2019 comments on the application of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee urges the

Government to strengthen its efforts to ensure equality of opportunity and treatment for migrant workers, both European Union citizens and third-country nationals, and more particularly migrant domestic workers, by: (i) enhancing and expanding their access to employment opportunities, including by removing the restrictions imposed on domestic workers wishing to change employers; (ii) ensuring regular labour inspections of workplaces, mainly in sectors where migrant workers are most represented, such as domestic work and agriculture; (iii) raising public awareness of the relevant legislative provisions, the procedures and remedies available; as well as (iv) enhancing migrant workers' access to justice without fear of detention or deportation, both while legal proceedings are pending and also at earlier investigative stages. It asks the Government to provide information on any proactive measures undertaken – including in the framework of any plan, strategy or policy adopted since the Action Plan for the Integration of Immigrants who are Legally Residing in Cyprus which ended in 2012 – to shape the national equality policy for foreign workers and on the involvement of workers' and employers' organizations in this context. The Committee asks the Government to provide information on the number and nature of cases or complaints of unequal treatment of migrant workers that have been detected or dealt with by the labour inspectors, the Ombudsman, the courts or any other competent authorities, concerning in particular terms and conditions of work of migrant workers, including remuneration, social security, and accommodation as referred to in Article 6(1)(a) and (b) of Convention No. 97.

The Committee is raising other matters in direct [request on Convention 97](#) as well as its [request on Convention 143](#).

## ***Czechia***

### **Article 7 - Protection of young persons -**

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/CZE/CO/5-6: Concluding observations on the combined fifth and sixth periodic reports of Czechia \(22 October 2021\)](#)

[CRC/C/OPSC/CZE/CO/1: Concluding observations on the report submitted by Czechia under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography \(05 March 2019\)](#)

### **Article 8 - Maternity Protection -**

#### ***Convention N° 183 - Maternity Protection***

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Maternity Protection Convention, 2000 \(No. 183\)](#)

The Committee notes the Government's first report.

Articles 2 and 8(1) of the Convention. Coverage and protection against dismissal of women in atypical forms of dependent work. The Committee notes the indication by the Government that the provisions of the Convention are applied by the Sickness Insurance Act and the Labour Code, which cover insured persons working under an employment agreement. The Committee further notes that the Labour Code does not apply to the categories of women working under agreements on work performed outside standard employment relationships, such as short-term employment contracts, and atypical

workers. In particular, the Committee notes that, according to section 77 of the Labour Code, protection from dismissal or immediate termination is provided only to employees in standard employment relationships, and that it does not apply to workers in atypical forms of employment, such as those employed under short-term contracts. The Committee recalls that, according to Articles 2 and 8(1) of the Convention, all employed women, including those in atypical forms of dependent work must benefit from the protection set out therein, including protection against termination of employment during pregnancy, absence on leave, or during a period following her return to work and breastfeeding, in line with Article 9 of the Convention. The Committee requests the Government to provide information on the legislative provisions governing maternity protection for the categories of employed women excluded from the scope of the Labour Code, and the manner in which they guarantee the application of the Convention in all its aspects, particularly concerning provision of protection against termination of the employment relationship during pregnancy, leave and breastfeeding period. The Committee also requests the Government to provide statistics on the total number of employed women making social security contributions, including the number of those in atypical forms of dependent work (e.g. home work, telework, or temporary work).

Article 6(2) and (3). Level of maternity cash benefits. The Committee notes the Government's indication that, according to section 37 of the Sickness Insurance Act, maternity cash benefits are paid at a rate of 70 per cent of the Daily Assessment Base (Denní vyměřovací základ), which is calculated applying different percentages over gross monthly earnings of the last 12 months preceding the leave, depending upon certain salary thresholds (100 per cent up to CZK1,298 (€52) per day, 60 per cent for salaries between CZK1,298 (€52) and CZK1,946 (€78) per day, and 30 per cent for salaries between CZK1,946 (€78) to CZK3,892 (€156)). The Committee further observes that, according to Eurostat, the at-risk-of-poverty threshold value was estimated at €531 per month in 2021 in Czechia and that the minimum wage was established in €642 for the same year. Recalling that, according to Article 6(3) of the Convention, maternity benefits based on women's previous earnings must represent at least two-thirds of those earnings (66.6 per cent), the Committee requests the Government to provide explanations on the manner in which such a replacement rate is secured to all women protected, based on the calculation of the Daily Assessment Base for all the levels of salary. The Committee also requests the Government to indicate, with reference to relevant cost-of-living indicators, if the level of maternity cash benefits to which all women protected are entitled, regardless of the level of their salary, is sufficient to ensure that they can maintain themselves and their children in proper conditions of health and with a suitable standard of living, in accordance with Article 6(2) of the Convention.

Article 6(6). Adequate benefits out of social assistance funds. The Committee takes note of the information provided by the Government that any benefits from social assistance funds or benefits from non-insurance social systems are ensured in the Czech legal order through Act No 111/2006 Coll., on assistance in material need, and by Act No 117/1995 Coll., on state social support. The Committee observes that, according to the information provided by the Ministry of Labour and Social Affairs, the total amount of the minimum subsistence level recognized for a single person is CZK4,680 (€188,5) per month, which can be increased by CZK2,360 (€96,3) for one dependent child under 6 years old, amounting to CZK6,980 (€285). The Committee observes that this amount is below the Eurostat at-risk-of-poverty threshold value noted above, i.e., €531 per month in 2021. It also observes that in its 2022 conclusions on the compliance with Article 13(1) on the right to social and medical assistance of the European Social Charter, the European Committee of Social Rights considered that the level of social assistance in Czechia was manifestly inadequate on the basis that the minimum assistance that could be obtained was not compatible with the poverty threshold. In view of the above, the Committee requests the Government to provide information on any additional cash benefits provided to women workers who do not qualify for social insurance maternity benefits, in case of maternity or in respect

of their children, to ensure that they can maintain themselves and their children in proper conditions of health and with a suitable standard of living, as required by Article 6(2) of the Convention.

Article 11. Periodic review of maternity leave and rate of payment. The Committee takes note of the information provided by the Government that regulations as to sickness insurance and maternity benefits rank among the main questions discussed by the Council of Economic and Social Agreement, and that participation of social partners in the legislative process concerning those areas is enshrined in section 320 et seq. of the Labour Code. The Committee requests the Government to provide information on the outcome of the periodic reviews undertaken by the Council of Economic and Social Agreement in application of Article 11 of the Convention, and of any subsequent development concerning the duration of maternity leave and rate of cash benefits.

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

### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/CZE/CO/5-6: Concluding observations on the combined fifth and sixth periodic reports of Czechia \(22 October 2021\)](#)

[CRC/C/OPSC/CZE/CO/1: Concluding observations on the report submitted by Czechia under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography \(05 March 2019\)](#)

### ***International Covenant on Economic, Social and Cultural Rights***

[E/C.12/CZE/CO/3: Committee on Economic, Social and Cultural Rights - Concluding observations on the third periodic report of Czechia \(2022\)](#)

While welcoming the progress made in the area of childcare, including children's groups and micro-crèches, the Committee is concerned that these measures are insufficient for addressing the sharing of parental responsibilities and childcare options. The Committee is further concerned that women more often assume the role of household carer and face the issue of balancing their professional and personal lives, including having difficulties re-entering the labour market after maternity leave.

The Committee recommends that the State party:

- (a) Expand the availability of adequate high-quality childcare facilities and services, as well as increased availability of flexible working arrangements;
- (b) Take comprehensive measures to eliminate gender role stereotypes, including through media campaigns and opinion leaders, and through awareness-raising among the general public on the equal sharing of rights and responsibilities between men and women in the family and society;
- (c) Extend the two-week period allowed for paternity leave, and ensure that parents take full advantage of the time to establish the equitable distribution of care responsibilities between men and women.

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/CZE/CO/5-6: Concluding observations on the combined fifth and sixth periodic reports of Czechia \(22 October 2021\)](#)

[CRC/C/OPSC/CZE/CO/1: Concluding observations on the report submitted by Czechia under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography \(05 March 2019\)](#)

## **Georgia**

### **Article 7 - Protection of young persons**

#### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/OPAC/GEO/CO/1 Committee of the Right of the Child [Concluding observations on the report submitted by Georgia under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography \(30 October 2019\)](#)

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

#### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/OPAC/GEO/CO/1 Committee of the Right of the Child Concluding observations on the report submitted by Georgia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (30 October 2019)

CRC/C/OPAC/GEO/CO/1 Committee of the Right of the Child Concluding observations on the report submitted by Georgia under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (30 October 2019)

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

#### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/GEO/CO/6: Committee on the Elimination of Discrimination against Women - Concluding observations on the sixth periodic report of Georgia \(2023\)](#)

The Committee [...] remains concerned that older women, women with disabilities, women belonging to ethnic minority groups, internally displaced women and women living in conflict-affected areas,

refugee, asylum-seeking, migrant and stateless women and lesbian, bisexual, transgender and intersex women continue to face intersecting and aggravated forms of discrimination in the State party.

Recalling its previous recommendation (CEDAW/C/GEO/CO/4-5, para. 35), the Committee recommends that the State party adopt targeted measures, including temporary special measures, to ensure access to justice, employment and health care, including sexual and reproductive health services, social protection and food security for disadvantaged groups of women, such as older women, women with disabilities, women belonging to ethnic minority groups, internally displaced women and women living in conflict-affected areas, refugee, asylum-seeking, migrant and stateless women and lesbian, bisexual, transgender and intersex women, taking into account their specific needs.

[...]

The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

## *Germany*

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/DEU/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Germany](#) (13 October 2022)

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/DEU/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of Germany](#) (13 October 2022)

#### ***Council of Europe – European Convention on Human Rights***

**European Court of Justice, Communicated case on 20 December 2022, Application no. [26657/22](#), M.C.K. and M.H.K.-B. and others against Germany**

SUBJECT MATTER OF THE CASE

The applications concern Covid-19 related restrictions on and prohibition of in-class lessons (also globally referred to as school closures) under Section 28b § 3 of the German Protection Against Infection Act (the “IfSG”) in its version effective from 23 April 2021 (as amended by the Fourth Act on the Protection of the Population during an Epidemic Situation of National Dimension of 22 April 2021), further amended with effect from 4 May 2021 (Second Act Amending the Protection Against Infection Act and Other Acts of 28 May 2021; so-called Federal pandemic emergency brake II).

In particular, the impugned provision prescribed, depending on the rate of new Covid-19 infections calculated on the basis of the previous seven days (so-called seven-day incident rate) in the district concerned on three consecutive days, for general education and vocational schools

- a hybrid learning requirement with school classes divided into different groups alternating between in-class lessons at school and remote learning from home or
- a complete ban on in-class lessons.

The applicants are pupils from various districts in Germany and attended schools which had been closed several times during the Covid-19 pandemic before and which were again subject to school closures by virtue of the impugned provision since 23 April 2021 for different periods of time.

On 19 November 2019 the Federal Constitutional Court dismissed two joint constitutional complaints (applications nos. 26657/22 and 27035/22) in a leading order on the Federal pandemic emergency brake II (school closures), 1 BvR 971/21 and 1 BvR 1069/21. Subsequently, it decided not to accept the further applicants' constitutional complaints for adjudication without providing any reasons (applications no. 28889/22 and respectively no. 33664/22).

The applicants complain that the school closures negatively affected their personal and social development as well as their mental health and respectively reduced their knowledge with effects on their future careers and income.

#### COMMON QUESTIONS TO ALL PARTIES

1. Have the applicants been denied the right to education, guaranteed by Article 2 of Protocol No. 1?
2. Has there been an interference with the applicants' right to respect for their private and/or family life, within the meaning of Article 8 § 1 of the Convention?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2?

3. Concerning both Article 2 of Protocol No. 1 and Article 8 of the Convention:

In particular, did the national authorities enjoy a margin of appreciation in the matter and, if so, to what extent?

If so, did they overstep their respective margin of appreciation when ordering by virtue of Section 28b § 3 of the German Protection Against Infection Act (the "IfSG"), since 23 April 2021, so-called school closures, including in particular

- a hybrid learning requirement with school classes divided into different groups alternating between in-class lessons at school and remote learning from home or
- a complete ban on in-class lessons?

In particular, were the so-called school closures taken in, and with due consideration of, the children's best interest?

If so, to what extent were the national authorities required to take into account previous school closures ordered before 23 April 2021 within the context of the Covid-19 pandemic?



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

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/DEU/CO/9: Committee on the Elimination of Discrimination against Women - Concluding observations on the ninth periodic report of Germany \(2023\)](#)

The Committee [...] notes with concern reports that migrant women and girls have limited access to basic services and the labour market in the State party. The Committee also notes with concern reports of increased anti-migrant and anti-Roma racism motivated by right-wing extremists, including the police, and of continued discrimination against migrant and Roma populations in all spheres, including education and access to social services.

The Committee recommends that the State party take effective measures to ensure that Roma and migrant women and girls, regardless of their country of origin, have full access to basic services and the labour market in the State party. The Committee also recommends that the State party take measures to combat racism against migrant and Roma populations, including through training programmes for police and collaboration with the media on awareness-raising campaigns to prevent intersecting forms of discrimination.

### ***Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention***

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\) Migration for Employment Convention \(Revised\)](#), 1949 (No. 97)

The Committee takes note of the observations of the Confederation of German Employers' Associations (BDA) received on 1 September 2017.

Article 1 of the Convention. Information on laws and regulations. The Committee notes that in its observations, BDA indicated that the country needed skilled migrant workers and that the complexity of the applicable legislation was an obstacle to their immigration into the country. The Committee takes note of the indication, in the report of the Government, that the high demand in certain sectors for skilled workers has prompted the adoption of the Skilled Immigration Act, on 15 August 2019. The Committee also notes the Government's indication that, following the entry into force of this Act, the "priority review", by which the Federal Employment Agency verifies whether an open position can be fulfilled by a German worker before authorizing the hiring of a foreign skilled worker, will no longer apply. In addition, the Government indicates that the new Act provides for the possibility for foreign skilled workers with vocational trainings to enter the country on a temporary basis to seek employment or to stay in the country to obtain supplementary qualifications. Lastly, the Government indicates that an administrative fast-track process would be created for skilled migrant workers. The Committee further notes that the Government refers to a series of other reforms on migration-related issues adopted in 2019 (including the Law on the removal of the time limit from the Integration Act, of 4 July 2019; the Law on tolerated stay in case of training or employment of 8 July 2019; and the Law on the promotion of the training and employment of foreign nationals of 8 July 2019). The Committee requests the Government to provide detailed information on the impact of the recent reforms on migration-related issues for the application of the Convention.

Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. The Committee welcomes the adoption of Directive (EU) 2018/957, pursuant to which Member States of the European Union shall apply to posted workers the

terms and conditions of employment of the host country in a series of matters, that include remuneration, maximum work periods and minimum rest periods, minimum paid annual leave, minimum age, health, safety and hygiene at work, and accommodation. The Committee notes that Member States of the European Union shall adopt by 30 July 2020, the laws, regulations and administrative provisions necessary to comply with this Directive.

Information on national policies. In its previous comment, the Committee requested the Government to provide information on the implementation of the National Plan of Action on Integration (NPAI), as well as on the activities of the Federal Office for Migration and Refugees (FOMR). On the implementation of the NPAI, the Committee notes that, the Government refers to the programme “integration through qualifications”, and to the establishment of the Office for Equal Treatment of EU Workers to assist EU workers and their families, as required pursuant to EU Directive 2014/54/EU. However, the Committee notes that the Government does not provide details on the implementation in practice nor on the concrete results of the NPAI, in particular with regard to migrant workers non EU Member States. With regard to the activities of the FOMR, the Committee takes note of the Government’s indication that it is responsible for carrying out research projects on the economic aspects of migration and provides a list of its recent surveys. The Committee requests the Government to provide further details on the implementation of the NPAI in practice, in particular with regard to migrant workers from non EU Member States, and on any other national policy relating to migration.

Articles 2 and 4. Free services provided to migrant workers. Integration courses. In follow-up to its previous request to provide this information, the Committee takes note of the Government’s indication regarding the number of third country nationals required to take part in integration courses (184,415 persons in 2016).

Articles 2, 4 and 6. Application of the Convention to women migrant workers. In follow-up to its previous comment, the Committee notes that the Government does not provide information on its assessment of the application of the Convention to women migrant workers. The Committee takes note of the indication by the BDA that employers support the activities undertaken by the Federal Employment Agency for the better integration of refugee women. The Committee observes that the United Nations Committee on the Elimination of Discrimination against Women, while noting the efforts of the Government to facilitate the integration of migrant women, also noted that they suffered from stereotyped media portrayals, had limited access to the formal labour market, and were at risk of experiencing intersecting forms of discrimination in access to employment (CEDAW/C/DEU/CO/7-8, 9 March 2017, paragraphs 21, 35, and 43). The Committee requests the Government to provide information on the assistance services delivered to migrant women workers to address their specific needs.

Article 6(1)(d). Treatment no less favourable in respect to access to legal proceedings relating to the matters referred to in the Convention. In its previous comments, the Committee requested the Government to provide information on the mechanisms and procedures available to migrant workers to seek redress regarding situations of non-respect of the right to equal treatment. The Committee notes that the Government indicates that migrant workers have access to legal remedies and may file complaints and seek compensation in cases of discrimination pursuant to sections 13 and 15 of the General Act on Equal Treatment. The Committee further notes that pursuant to section 75(1) of the Works Constitution Act, the employer and the works council shall ensure that all persons working in the establishment are treated in accordance with the principles of law and equity, and that no one is subject to discrimination on the ground of nationality.

Access to legal proceedings in practice. In its previous comments, the Committee had observed that pursuant to section 39(2) of the Residence Act, the Federal Employment Agency may approve the granting of a temporary residence permit if, among other requirements, it has established that the

foreign worker is not employed on terms less favourable than the ones that apply to comparable German workers. It had also observed that pursuant to section 41 of the Residence Act, the approval may be revoked and the seasonal work permit withdrawn if, among other grounds, the foreigner is employed on less favourable terms than comparable German workers. The Committee takes note of the Government's indication that given the serious consequences attached to these decisions, the Federal Employment Agency only revokes residence permits in rare instances, when it acquires knowledge of the less favourable treatment. The Committee requests the Government to ensure that the application of section 41 of the Residence Act does not, in practice, deter migrant workers from seeking legal remedies relating to the matters covered by the Convention.

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

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/DEU/CO/9: Committee on the Elimination of Discrimination against Women - Concluding observations on the ninth periodic report of Germany \(2023\)](#)

The [...] Committee notes with concern:

[...]

(d) That two weeks of paid leave for the partner is not sufficient to promote equal sharing of the care of children;

(e) That, despite the entitlement of children to childcare under the 2008 Childcare Funding Act, reports indicate that the number of hours per week is often not sufficient to cover needs and that financial resources have been channelled more towards building childcare facilities than towards hiring and training qualified staff;

Recalling its previous recommendations (see [CEDAW/C/DEU/CO/7-8](#), para. 36) the Committee recommends that the State party:

[...]

(d) Continue improving staffing ratios for day-care centres and ensure high-quality and reliable childcare and after-school care for children, if necessary, for the entire duration of the working day;

## ***Hungary***

### **Article 7 - protection of young persons**

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/HUN/CO/6: Committee on the Rights of the Child: Concluding observations on the sixth periodic report of Hungary \(03 March 2020\)](#)

#### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Direct Request \(CEACR\) - adopted 2018, published 108th ILC session \(2019\) Worst Forms of Child Labour Convention](#), 1999 (No. 182)

The Committee notes that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments initially made in 2015.

#### Repetition

Article 5 of the Convention. Monitoring mechanisms. Trafficking. Following its previous comments, the Committee notes the Government's information that a National Crime Prevention Strategy 2013–23, aimed at increasing the efficiency of crime prevention, was adopted in October 2013, within which a National Strategy for Combating Trafficking in Human Beings 2013–16 was adopted. The Government report indicates that this strategy, which aims to establish an effective system of identifying victims of trafficking, punishing perpetrators of trafficking in persons and providing protection to victims of trafficking will pay special attention to the protection of children. In this regard, several training courses were organized by the police headquarters dedicated to trends in trafficking in persons, identification, protection and assistance to victims of trafficking, as well as investigation of cases of trafficking in persons.

Article 7(2). Clause (d). Identifying and reaching out to children at special risk. Roma children. In its previous comments, the Committee noted the adoption of the National Strategy of Social Integration (NSSI) in December 2011, a ten-year project which included the integration of the Roma as one of the priority areas of intervention. It also noted that the NSSI gives special priority to helping disadvantaged children, especially Roma children, to gain access to quality schooling, and aims to achieve several key objectives with regard to education, such as the strengthening of support services within and outside schools in order to prevent drop outs, or the creation of grants and bursaries for disadvantaged children, including Roma children, to make them more successful in school.

The Committee notes from the report of the European Union Agency for Fundamental Rights, entitled; Education: the situation of Roma in 11 EU Member States that among the EU Member States, Hungary has the highest rates of Roma children with preschool experience of 92 per cent. This report also indicates that the rate of Roma children not in compulsory schooling is 5 per cent in Hungary. However, this report indicated that Hungary recorded the highest share 51 per cent of Roma who dropped out while still in compulsory schooling. The Committee also notes that the Committee on the Rights of the Child, in its concluding observations of 14 October 2014, expressed concern at the continued segregation of Roma children in separate classes and schools, and limited access of asylum-seeking children into education. The Committee requests the Government to pursue its efforts, within the framework of the NSSI, to protect Roma children from the worst forms of child labour, particularly through initiatives to facilitate their access to free, basic and quality education and to provide for their inclusive education in mainstream schools. It once again requests the Government to provide information on the impact of the measures taken in this respect, particularly with regard to increasing school attendance and completion rates and decreasing school drop-out rates among Roma children.

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

#### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/HUN/CO/6: Committee on the Rights of the Child: Concluding observations on the sixth periodic report of Hungary \(03 March 2020\)](#)

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/HUN/CO/6: Committee on the Rights of the Child: Concluding observations on the sixth periodic report of Hungary \(03 March 2020\)](#)

### **[Council of Europe – European Convention on Human Rights](#)**

**European Court of Human Rights, judgement 30 March 2023, [CASE OF SZOLCSÁN v. HUNGARY](#) (Application no. 24408/16)**

Discrimination of Roma pupil on account of segregation in a State-run primary school attended almost exclusively by Roma children, Failure to take adequate desegregation measures to correct factual inequality and to avoid its perpetuation and resultant discrimination, No objective and reasonable justification – Violation of Art 14 ECHR in conjunction with Art 2 Additional Protocol N° 1)

European Court of Human Rights, judgement of 13 December 2022 (final 13/03/2023), [CASE OF ELMAZOVA AND OTHERS v. NORTH MACEDONIA](#) ((Applications nos. 11811/20 and 13550/20)

Discrimination of Roma pupils on account of their segregation in two State-run primary schools attended predominantly by Roma children and with Roma-only classes respectively, State's failure to take desegregation measures to correct applicants' factual inequality and to avoid perpetuation of discrimination resulting from their over-representation in one of the district's school, Segregation in both schools not objectively and reasonably justified by legitimate aim; violation of Art 14 ECHR and Article 2 Additional Protocol N° 1)

## ***Latvia***

In general terms, it is suggested to take into account the following Concluding Observations of CESCR via the following link:

[E/C.12/LVA/CO/2: Concluding observations on the second periodic report of Latvia \(30 March 2021\)](#)

## **Article 8 - Maternity Protection –**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CEDAW/C/LVA/CO/4-7: Committee on the Elimination of Discrimination against Women: Concluding observations on the combined fourth to seventh periodic reports of Latvia \(10 March 2020\)](#)

### ***Convention N° 183 - Maternity Protection***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Maternity Protection Convention, 2000 \(No. 183\)](#)

Article 2 of the Convention. Coverage of public employees. The Committee notes the reply provided by the Government, in its report, concerning the manner in which the Convention is applied to public

sector employees. It notes, in particular, that public sector employees benefit from the same protection as private sector employees in relation to maternity and that they are covered by the same provisions in this respect, namely the Labour Law, the Law on Maternity and Sickness Insurance, 1995, and the Law on State Social Benefits, 2002. The Committee takes note of this information.

Article 4(4). Compulsory postnatal leave. In its previous comments, the Committee requested the Government to indicate whether the representative organizations of employers and workers at the national level had been consulted regarding the establishment of a compulsory postnatal leave of two weeks in the Labour Law, considering that Article 4(4) of the Convention required maternity leave to include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.

In reply, the Government indicates that the minimum 2-week period of compulsory maternity leave was included in the Labour Law after consultation and in agreement with workers' and employers' representatives, namely the Free Trade Union Confederation of Latvia and the Employers' Confederation of Latvia. The Government further specifies that, according to section 154 of the Labor Law, all women covered are entitled to 56 days of postnatal maternity leave, which they can use as they wish or require. The Committee takes note of this information.

Article 6(1). Suspension of maternity cash benefits in case of incapacity of the mother to care for her child. In its previous comments, the Committee noted that maternity benefits were suspended where a woman could not care for her child during a period of up to 42 days after birth due to health-related reasons, and requested the Government to indicate if during that suspension, sickness benefit was provided so as to allow the payment of maternity benefits to resume upon recovery from illness. The Committee notes the reply of the Government, indicating that, pursuant to section 6 (2) of the Law on Maternity and Sickness Insurance, 1995, where the mother is incapable of caring for her child for up to 42 days following childbirth due to sickness, injury or other health-related reasons, the father or the person who is effectively taking care of the child is granted the maternity benefit for the time during which the mother is not able to care for her child. The Committee further notes that, according to the Government, in such cases maternity benefits are not suspended, as both the mother and the father, or the other person caring for the child in lieu of the parents, are entitled to the maternity benefit simultaneously. The Committee takes note of this information.

Articles 6(1) and 9. Replacement of maternity leave by sick leave in certain cases. In its previous comments, the Committee noted that, pursuant to section 5(6) of the Law on Maternity and Sickness Insurance, women who relinquish the care and upbringing of their child or abandon their child were granted sickness benefit in place of maternity cash benefit, and requested the Government to indicate if sickness benefit could be provided during the whole period of maternity leave.

The Committee notes the Government's reply, indicating that the duration of sickness or disability benefit in such cases would be linked to the health condition of the woman concerned, and is provided until she recovers. The payment of sickness benefit for the whole duration of the maternity leave period is therefore not envisaged. On this basis, the Government does not consider the right to sickness benefit to be guaranteed for a shorter period than maternity leave, and indicates that no problematic cases have been identified until now. The Committee also notes the Government's indication that, in case of a child abandonment, the entitlement to maternity benefit is transferred to the father or to the other carer, as the case may be, and notes that section 6 (1) and (2) of the Law on Maternity and Sickness Insurance provides the same in cases where the mother has relinquished the care and raising of the child. Lastly, the Government specifies that in Latvia, the source of financing of sickness and maternity benefits is the same, and that these benefits come from the same fund.

While taking due note of the above, the Committee reiterates that the measure set out in section 5(6) of the Law on Maternity and Sickness Insurance in the case of a woman who relinquishes the care and upbringing of her child, or abandons her child, may have the effect of depriving the insured person of her maternity benefit entitlements and of unduly shortening her right to sickness benefits in the postnatal period. It may also lead to discrimination against women, contrary to Article 9 of the Convention, pursuant to which maternity shall not constitute a source of discrimination in employment. The Committee thus requests the Government to indicate any measure taken or envisaged to ensure that the cash benefits provided to women in the above mentioned cases to allow them to recover from pregnancy, childbirth and their consequences, for up to 2 weeks, which corresponds to the mandatory postnatal leave period in Latvia do not reduce their overall sickness benefit entitlement.

Article 6(2) and (3). Level of cash benefits. In its previous comments, the Committee requested the Government to indicate for which categories of women workers the replacement rate of 80 per cent of insurable earnings established by the national legislation for maternity benefits would be insufficient for the maintenance of the mother and child, as prescribed by Article 6(2) of the Convention, compared to at-risk-of-poverty level and subsistence level determined in the country, as well as to supply information on how maternity benefits paid to low wage earners are related to the poverty and subsistence levels determined in the country. The Committee notes the reply provided by the Government, indicating that low wage earners are protected by a statutory minimum monthly wage of EUR 500 in 2021. Consequently, the amount of the minimum maternity benefit in 2021 is EUR 400, representing 80 per cent of the minimum wage.

The Committee observes, however, based on the latest data available in the Eurostat database, that Latvia, in 2021, is still among the countries of the European Union (EU) with the highest share of persons at risk of poverty, i.e. 26 per cent of the population. Considering that the at-risk-of-poverty threshold (set, in the EU, at 60 per cent of the national median equivalized disposable income) corresponded, in 2019, to EUR 441 for Latvia, for a single person household, the Committee observes that a minimum maternity benefit of €400, is below the at-risk-of-poverty threshold.

In view of the above, the Committee requests the Government to indicate the measures taken to guarantee that maternity cash benefits are provided at a level ensuring that women can maintain themselves and their children in proper conditions of health and with a suitable standard of living, in accordance with Article 6(2) of the Convention. In this regard, the Committee requests the Government to provide information on any other cash benefits to which women, and in particular those at-risk of poverty, would be entitled during maternity leave, so as to ensure the application of Article 6(2) of the Convention. The Committee further requests the Government to indicate if the statutory minimum wage is applicable to women in atypical forms of dependent work, to whom the protection set out in the Convention must also be guaranteed.

Article 6(7). Medical benefits. Noting that the legislation only provided for free of charge medical care during the first 42 days following childbirth, the Committee previously requested the Government to indicate the measures it envisaged to take with a view to harmonizing national laws and regulations with Article 6(7) of the Convention, to ensure the provision of prenatal, childbirth and postnatal care, as well as hospitalization care when necessary, free of charge, at least during the period of maternity leave. The Committee notes with satisfaction that, pursuant to the Health Care Financing Law of 14 December 2017, women who receive health care services related to pregnancy and post-natal observation, are released from any co-payment otherwise required, and therefore receive maternity medical care services free of charge for up to seventy days after childbirth. The Committee takes note of this information.

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/LVA/CO/4-7: Committee on the Elimination of Discrimination against Women - Concluding observations on the combined fourth to seventh periodic reports of Latvia \(2020\)](#)

The Committee [...] notes with concern the following:

[...]

(b) The limited access, despite the existing universal health coverage system, of women to basic health services, including sexual and reproductive health services and modern contraceptives, in particular for girls and young women, including girls and women in rural areas, Roma girls and women, older women, girls and women with disabilities;

(c) The limited access to high-quality maternal health care throughout pregnancy and delivery for undocumented migrant women, who are ineligible for the State party's compulsory health insurance, and to high-quality mental health care services;

The Committee recommends that the State party:

[...]

(b) Ensure access for all women and girls to inclusive and accessible basic health services, including sexual and reproductive health services and affordable modern contraceptives, especially in rural areas, and improve the availability and quality of the mental health-care system, in line with the mental health-care plan for the period 2018–2020;

(c) Ensure affordable, and, if necessary, free, access for undocumented migrant women to maternal health care throughout pregnancy and delivery, including antenatal care;

## ***Lithuania***

### **Article 8 - Maternity Protection**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CEDAW/C/LTU/CO/6: Committee on the Elimination of Discrimination against Women: Concluding observations on the sixth periodic report of Lithuania \(12 November 2019\)](#)

### ***Convention N° 183 - Maternity Protection***

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Maternity Protection Convention, 2000 \(No. 183\)](#)

Article 4(4) of the Convention. Compulsory period of postnatal leave. The Committee takes note of the information provided by the Government in reply to its previous comment, stating that a period of mandatory postnatal leave of 14 days (2 weeks), provided by article 132 of the Labour Code, has been agreed in the Tripartite Council which advises the Parliament and the Government on social, economic



and labour policy issues and which is made up of an equal number of members (central trade unions, employers' organizations and government representatives).

Article 6(2) and (6). Maternity benefits paid out of social assistance funds. The Committee notes that, according to section 10 of the Law on Benefits to Children, 2011, women who are not entitled to maternity allowance are granted a lump sum corresponding to two basic social cash benefits. According to the Ministry of Social Security and Labour on social assistance to families and children, the basic social cash benefit is paid per person to families and single residents unable to provide themselves with sufficient funds for living. The Committee takes note of the information provided by the Government that social cash benefit is paid at a rate of €240 per month. The Committee observes that a woman would then receive, for herself and her baby, an amount of €480, which is below the 2021 Eurostat at-risk-of-poverty of €483.41 per month. The Committee further observes that, in its 2021 conclusions on the application of Article 13(1) on the right to social and medical assistance of the European Social Charter, the European Committee of Social Rights noted that the combined level of basic and supplementary benefits available to a single person without resources in Lithuania was not adequate. In view of the above, the Committee requests the Government to provide information on the measures taken to ensure that social cash benefits provided to women workers who do not qualify for social insurance maternity benefits are set and maintained at a level sufficient to allow these women to maintain themselves and their children in proper conditions of health and with a suitable standard of living, in accordance with Article 6(2) of the Convention. In addition, the Committee requests the Government to provide statistical information on the total number of women protected by the Convention who have received social cash benefits during their maternity leave and on the amount received, over the next reporting period.

Article 9(2). Prohibition of pregnancy tests. The Committee notes that, under article 26 of the Labour Code, discrimination on grounds of gender in relation to access to employment is prohibited. Recalling that Article 9(2) of the Convention requires measures be taken to prohibit employers from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, the Committee requests the Government to indicate the provisions of its legislation giving effect to this requirement of the Convention, and to provide information of the reparations and sanctions applied in case of violation.

## **Article 27 - Workers with Family Responsibilities**

### ***Convention N° 156 - Workers with Family Responsibilities Convention***

- [Direct Request \(CEACR\) - adopted 2018, published 108th ILC session \(2019\), Workers with Family Responsibilities Convention, 1981 \(No. 156\)](#)

Article 3 of the Convention. National policy. The Committee takes note of the adoption of Law No. XII-2462 of 21 June 2016 establishing and implementing the new Labour Code, which entered into force on 1 July 2017, and more particularly of section 2 which recognizes the principle of equality of the subjects of the labour law – irrespective of marital or family status and intent to have a child or children, among others. It notes the Government's indication, in its report, concerning the adoption of the Action Plan on Integrated Provision of Service to Families for 2016–20 which aims at supporting family members to better balance family and work responsibilities by providing educational, social health care and legal services. The Committee requests the Government to provide information on the concrete measures taken to implement the Action Plan on Integrated Provision of Service to Families for 2016–20 in order to enable workers to better conciliate employment and family responsibilities, as well as on the results achieved in this regard. It also requests the Government to provide information on the practical application of section 2 of the Labour Code of 2016, as well as on any judicial or

administrative decisions relating to employment discrimination on the ground of family responsibilities and intent to have a child or children, including unfavourable treatment as a result of using family-related entitlements.

Article 4. Terms and conditions of employment. Referring to its previous comments where it noted the very low number of male beneficiaries of childcare leave and recalled the importance of equitable sharing of family responsibilities, the Committee notes the Government's general indication that the number of childcare leave benefits for both men and women has decreased since 2010. It notes however that, according to the State Social Insurance Fund SoDra, the share of men taking childcare leave and receiving a parental allowance has been steadily growing, from 7.5 per cent of total parental leave taken in 2009 to 18 per cent in 2014. It further notes that, in its last concluding observations the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) recommended developing incentives to encourage more men to avail themselves of parental leave (CEDAW/C/LTU/CO/5, 24 July 2014, paragraph 35). The Committee requests the Government to provide information on any incentives implemented to encourage more men to take childcare leave, as well as to identify and address the underlying causes concerning the decrease observed since 2010 of the total number of beneficiaries of such entitlement. It also requests the Government to continue to provide updated information on the number of men and women taking childcare leave.

Working-time arrangements. The Committee previously noted that section 52 of the Statute of Military Service, by order No. V-163 of 29 February 2009, establishes that specific categories of workers with family responsibilities may be ordered to be on duty after daily service hours or on weekends only with the worker's consent. It notes that, according to section 40(5) of the 2016 Labour Code, part-time work is possible without the consent of the employer, at the request of a pregnant woman, a woman who recently gave birth or is breastfeeding, as well as any employee raising a child under 3 years of age or who is alone and raising a child under 14 years or a child with a disability under 18 years. It notes the Government's indication that, according to the Labour Code, an employer has the obligation to take measures to assist his or her employee in fulfilling his or her family obligations as through unpaid leave to meet family needs; part-time work; remote work; flexible and individual working time and other contractual variations, including job sharing for employees having children. The Committee also notes, from the Government's report under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), that a draft Law amending the Law on Civil Service would provide for the right of civil servants to flexible organization of working time and teleworking in order to better conciliate family obligations with a professional career. The Committee again requests the Government to provide information on the practical application of section 52 of the Statute of Military Service, as well as of section 40(5) of the Labour Code of 2016. Noting that, according to sections 40(8) and 52(8) of the Labour Code, employers shall provide at least once a year to Work Councils information on the number of employees engaged in part-time or remote work, the Committee requests the Government to provide information, disaggregated by sex, on the number of workers utilizing part-time work or any other flexible working time arrangements in order to accommodate workers with family responsibilities, both in the private and public sectors. It further requests the Government to provide information on the status of the adoption of the draft Law amending the Law on Civil Service and to forward a copy of the new legislation, once adopted.

Maternity leave and benefits. The Committee notes that section 132(1) of the 2016 Labour Code provides that if an employee is not making use of the pregnancy or maternity leave, the employer must grant fourteen days starting from the childbirth irrespective of the employee's request. In this regard, the Committee wishes to draw the Government's attention to its comments under the Maternity Protection Convention, 2000 (No. 183), recalling that, unless otherwise agreed at the

national level by the Government and the representative organizations of employers and workers, maternity leave for a minimum period of six weeks after childbirth is compulsory. The Committee requests the Government to provide information on the practical application of section 132(1) of the 2016 Labour Code, including on the number of women employees making use of the whole maternity leave, as well as for whom the employer was obliged to grant 14 days of leave from the birth of a child irrespective of their request.

Paternity leave and benefits. The Committee notes that, according to the statistics provided by the Government and available from Statistics Lithuania, the number of fathers who made use of one-month paternity leave increased from 12,966 in 2009 to 16,300 in 2016, which represented half of fathers for whom a child was born in 2016. The Committee requests the Government to continue to provide statistical information on the number of beneficiaries of paternity leave, and to identify and address the underlying causes of the low number of men taking paternity leave.

Article 5. Childcare and family services and facilities. The Committee notes the Government's indication that the number of childcare facilities raised from 626 in 2010 to 721 in 2015. Recalling the importance of ensuring that childcare and family services and facilities meet workers' needs and preferences, the Committee requests the Government to provide detailed statistical information on the availability of and accessibility to affordable childcare and family services and facilities including their utilization.

Article 6. Education. The Committee notes the Government's general indication that gender equality issues are part of basic and secondary education programmes for children. It further notes that, as a result of the 2015–17 Action Plan implementing the National Programme on Equal Opportunities for Women and Men for 2015–21, several training programmes on gender equality at work, including measures on family and work balance, were organized in both the private and public sectors. It notes, in particular, that several employers' and workers' organizations took part in a training on "how to become a family-friendly employer" which covered flexible forms of work as well as tools for creating a family-friendly work environment. The Committee requests the Government to continue to provide information on the educational programmes implemented, as well as on any measures taken to effectively address stereotyping in the roles of men and women at work and promote the sharing of family responsibilities.

Article 7. Integration of workers with family responsibilities into the labour force. The Committee notes that section 131(2) of the 2016 Labour Code provides that the employer should secure the employee's right to return, after a special purpose leave, including maternity and paternity leave, to the same or equivalent position on conditions not less favorable to the previous working conditions. The Committee requests the Government to provide information on the practical application of section 131(2) of the Labour Code. It also requests the Government to provide information on any measures taken to enhance the integration of workers with family responsibilities into the labour force, as well as to indicate the manner in which measures already implemented have enabled workers with family responsibilities to become and remain integrated in the labour force. The Committee also requests the Government to provide statistical information, disaggregated by sex, on the number of workers with family responsibilities who have benefited from employment services and active labour market measures.

Article 8. Protection against dismissal. The Committee notes with interest that section 61 of the 2016 Labour Code prohibits dismissal of employees during pregnancy until the child reaches 4 months of age, as well as during maternity or paternity leave, and that an employee raising a child under 3 years old cannot be dismissed except when he or she committed a fault. It further notes that, according to

section 57(7) of the Labour Code, in case of dismissal of an employee raising a child under 14 years old, the notice period is doubled. The Committee requests the Government to provide information on the practical application of sections 57(7) and 61 of the Labour Code, including on any relevant cases concerning dismissal of workers due to their family responsibilities dealt with by the Equal Opportunities Ombudsperson and the courts.

Article 11. Workers' and employers' organizations. The Committee previously noted that a Commission on Trilateral Consultations on International Labour Standards was established, which provides an opportunity for commenting on the implementation of the Convention at any time. It notes the Government's indication that the activities of this Commission were stopped and transferred directly to the Tripartite Council which meets annually. The Committee requests the Government to provide information on the reasons why the activities of the Commission on Trilateral Consultations on International Labour Standards were stopped, as well as on the activities of the Tripartite Council with respect to the measures giving effect to the Convention. It also reiterates its request for information on the manner in which collective agreements address the rights and needs of workers with family responsibilities.

Enforcement. The Committee notes, from the report of the Equal Opportunities Ombudsperson, the general information that, in 2017, there were 312 cases of discrimination based on gender, which represented almost 44 per cent of all complaints, half of which referred to discrimination in labour relations. The Committee again requests the Government to provide specific information on the number and content of complaints brought to the Equal Opportunities Ombudsperson or the courts with respect to the relevant provisions concerning workers with family responsibilities, as well as their outcome. The Government is also requested to provide any other information indicating the progress made in enabling workers with family responsibilities to exercise their right to engage in employment, including the results of relevant studies and reports, as well as statistical information, disaggregated by sex, on the participation of workers with family responsibilities in the labour market.

### **[International Covenant on Economic, Social and Cultural Rights](#)**

#### **[E/C.12/LTU/CO/3: Committee on Economic, Social and Cultural Rights - Concluding observations on the third periodic report of Lithuania \(2023\)](#)**

While welcoming the progress made in the area of childcare services, the Committee is concerned that these measures are insufficient for addressing the sharing of parental responsibilities and childcare options. The Committee is further concerned that women more often assume the role of household carer and face the issue of balancing their professional and personal lives, including having difficulties re-entering the labour market after maternity leave.

The Committee recommends that the State party:

- (a) Expand the availability of adequate high-quality childcare facilities and services, and increase the availability of flexible working arrangements;

## *Luxembourg*

### **Article 8 - Maternity Protection**

#### ***Convention N° 183 - Maternity Protection***

- [Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Maternity Protection Convention, 2000 \(No. 183\)](#)

Article 8(1) of the Convention. Employment protection. Dismissal for serious misconduct. Burden of proof. In its previous comments, the Committee noted that sections L.337-1 to L.337-6 of the Labour Code prohibited dismissal during pregnancy and maternity leave but that if a woman committed serious misconduct, she could be dismissed with immediate effect subject to authorization by the labour tribunal. In this regard, the Committee asked the Government to indicate whether, in the course of this procedure, the employer was required to prove that the dismissal for serious misconduct was unrelated to pregnancy, childbirth and its consequences or nursing. Since there has been no reply to this question from the Government, the Committee recalls that, even though Article 8(1) of the Convention provides for the possibility for an employer to dismiss a woman on grounds unrelated to pregnancy, childbirth and its consequences or nursing, the burden of proving that such grounds are unrelated lies with the employer, pursuant to the same Article. The Committee once again requests the Government to inform it of any legal or procedural measure establishing the obligation for the employer to prove that the grounds of dismissal for serious misconduct are unrelated to pregnancy, childbirth and its consequences or nursing, particularly in the context of the procedure for requesting authorization from the tribunal provided for in section L.337-1 of the Labour Code.

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/LUX/CO/5-6: Committee of the Rights of the Child Concluding observations on the combined fifth and sixth periodic reports of Luxembourg \(21 June 2021\)](#)

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/LUX/CO/5-6: Committee of the Rights of the Child Concluding observations on the combined fifth and sixth periodic reports of Luxembourg \(21 June 2021\)](#)

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/LUX/CO/6-7: Committee on the Elimination of Discrimination against Women - Concluding observations on the combined sixth and seventh periodic reports of Luxembourg \(2018\)](#)

The Committee [...] remains concerned, however, about the following:

- (b) The low number of children between the age of 3 and school age in childcare facilities;

The Committee recommends that the State party:

- (b) Expand the offer of childcare facilities, especially for children between the age of 3 and school age;

## **Republic of Moldova**

### **Article 7 - Protection of young persons**

#### *Convention N° 138 - Minimum Age Convention*

- [Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Minimum Age Convention, 1973](#) (No. 138)

Article 2(1) of the Convention. 1. Scope of application and labour inspection. Children working in the informal economy and self-employed children. In its previous comments, the Committee noted the Government's statement that neither the Labour Code nor Law No. 140-XV of 2001 on State Labour Inspectorate exclude from their application enterprises from the informal economy, or persons employed in the informal economy. The Government however indicated that due to the hidden character of the work in the informal economy, the control and monitoring of the activities of persons employed in this sector presented certain difficulties. The Committee further noted the measures taken by the Government to bring workers from the informal economy, including minors, into the legal framework. In particular, the Law No. 169 of 2012 on amending certain provisions of the Labour Code and the Contravention Code introduced administrative sanctions for the use of undeclared work, including by children. In addition, according to Government Decision No. 788 of 2013, the staff of the labour inspectorate had been increased by 12 units in order to effectively conduct the monitoring of child labour. The Committee further noted that according to the data provided by the Child Labour Monitoring Unit (CLMU) of the labour inspectorate, in 2014, 142 children and young persons under the age of 18 years had been identified as performing activities such as cooks and waiters; tailors; taking care of animals, washing cars and in agricultural works.

The Committee notes the Government's indication in its report that labour inspections with respect to 29 employees under the age of 18 were carried out in 2019. In particular, labour inspectors detected violations of the legislation on employment of minors such as undeclared work, the absence of a written individual employment contract, and work in dangerous conditions. The Government further indicates that six acts of labour inspection control concerning violations of sections 55(2) (violation of labour legislation in relation to a minor), 55-1 (use of undeclared work), and 58 (admission of a minor to work in dangerous conditions) of the Contravention Code have been submitted to the court. In addition, labour inspectors issued prescriptions for the withdrawal of children under 18 years of age from work performed in violation of the law. The Committee also takes note of the information

provided by the Government that in 2019, 2 122 students from 69 pre-university education institutions attended seminars conducted by labour inspectors on the provisions of the national legislation concerning employment of children under the age of 18.

The Committee, however, has noted in its comments of 2019, under the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) a significant decrease in the number of inspectors, restrictions on the undertaking of labour inspections, and a decrease in the number of inspections carried out in agriculture, forestry and fisheries. The Committee further notes that the UN Committee on the Rights of the Child (CRC) in its 2017 concluding observations recommended strengthening the labour inspectorate and the CLMU (CRC/C/MDA/CO/4-5, paragraph 38). The Committee requests the Government to continue to pursue its efforts to ensure that children under the minimum age who are working without an employment relationship, such as children working on a self-employed basis or in the informal economy, benefit from the protection afforded by the Convention. It also requests the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate so that it can effectively monitor and detect cases of child labour, and prevent and remedy conditions that inspectors have reasonable cause to believe constitute a threat to the health or safety of children, including in agriculture and the informal economy. It further requests the Government to provide information on the number and nature of violations reported and penalties imposed in this regard.

2. Minimum age for admission to employment or work. The Committee previously noted that, according to section 46(2) of the Labour Code, a person attains working capacity at the age of 16. It noted, however, that section 46(3) of the Labour Code allows children of over 15 years of age to conclude work contracts with the written permission of their parents, or legal representatives, provided that this does not impair their health, education, development or vocational training.

The Committee notes the Government's indication that the Convention sets out the minimum age for admission to employment, which may not be less than 15 years or 18 years for hazardous work. The Committee however once again reminds the Government that, on ratifying the Convention, it declared 16 years to be the minimum age for admission to employment and that, consequently, pursuant to Article 2(1) of the Convention, children under that age may not be admitted to work except for light work, which may be undertaken in the conditions set out in Article 7 of the Convention. The Committee therefore reiterates its requests to the Government to take the necessary measures, without delay, to ensure that no person under the minimum age specified by the Government (16 years) shall be admitted to employment or work in any occupation, except for light work. It further requests the Government to provide information on the measures taken in this regard.

Article 7(3). Determination of light work. The Committee previously noted the Government's information that, in the context of the revision of the list of types of hazardous work prohibited for children under the age of 18 years, discussions would be undertaken with regard to adopting a list of light work activities that may be carried out by children of 14 years of age, pursuant to section 11(2) and (3) of the Child Rights Act. Noting an absence of information in the Government's report on this point, the Committee once again requests the Government to provide information on the progress made with regard to the adoption of a list of light work activities that may be carried out by children of 14 to 16 years of age.

The Committee has raised other and similar concerns in Direct Requests in [2019](#) and [2018](#).



## *Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)*

- [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee previously noted the Committee on the Rights of the Child (CRC)'s indication in its concluding observations of October 2013 that Moldova remains one of the main countries of origin of children trafficked abroad and that the number of such children was continuously growing. The Committee observed the absence of specific data regarding the number of cases of trafficking of children dealt with by the courts. It requested the Government to ensure the effective implementation of section 206 of the Criminal Code prohibiting the trafficking of children.

The Government indicates in its report that in 2017, 48 child victims of trafficking were identified (31 girls and 17 boys), including seven children exploited for begging. During the first semester of 2018, 37 child victims of trafficking were identified (32 girls and 5 boys), including one exploited for begging. The Committee however observes that the Government does not provide any information on the outcome of the identified cases regarding investigations, prosecutions and penal sanctions imposed. It further notes that, in its concluding observations of October 2017, the CRC expressed concern that Moldova remains a country of origin for trafficking in persons for purposes of sexual and labour exploitation and at reports of alleged corruption in the judiciary and law enforcement that hinders the successful conviction and sentencing of traffickers (CRC/C/MDA/CO/4-5, paragraph 40). The Committee therefore requests the Government to take all the necessary measures without delay to ensure that thorough investigations and robust prosecutions of offenders are carried out against persons engaged in such acts, including government officials suspected of complicity, and that sufficiently effective and dissuasive penalties are applied in practice. It requests the Government to provide information in this regard, including the number of offences reported, investigations conducted and penal sanctions imposed.

Article 6. Programmes of action. Trafficking of children. The Committee previously requested the Government to provide information on the concrete measures taken within the framework of the National Action Plan for Preventing and Combating Trafficking in Human Beings 2014–16 and the results achieved.

The Committee notes the Government's indication that the Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings is the national coordinator of anti-trafficking policies and that it has taken measures to prevent and combat child trafficking, including activities aiming at raising awareness and informing the public about the risks and consequences of trafficking in persons. It further observes that the Government adopted a National Strategy for Preventing and Combating Trafficking in Human Beings for 2018–23 and the 2018–20 Action Plan regarding its implementation. The Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings is in charge of the coordination and monitoring of the implementation of the above-mentioned Strategy and its Action Plan and will produce an annual national report on preventing and combating trafficking in persons (section 4 of Decision No. 461 of 22 May 2018). The Committee requests the Government to continue to provide information on the measures taken to combat the trafficking of children, including within the framework of the National Strategy for Preventing and Combating Trafficking in Human Beings and its Action Plan and the results achieved.

Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour. Trafficking of children. The Committee previously noted that according to the data from the National Unit for coordination of the National Referral System



(NRS), in 2014, 11 child victims (six girls and five boys) and 218 potential child victims of trafficking were provided with protection and assistance. It requested the Government to pursue its efforts for the removal, rehabilitation and social integration of child victims of trafficking.

The Committee notes the Government's indication that it has developed a mechanism for intersectoral cooperation in identifying, assessing, referring and assisting child victims and potential victims of violence, neglect, exploitation and trafficking, in which the Ministry of Education, Culture and Research is part. The Committee notes that, in the Report on Observance of Human Rights and Freedoms in the Republic of Moldova in 2017, issued by the Ombudsman in 2018, the People's Advocate for the Rights of the Child recommends that the Government strengthen the implementation of the intersectoral mechanism, whose role is to identify and protect children at risk, by providing human resources (child rights specialists) and appropriate technical and financial resources. The Committee also notes that the Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings recommends that Moldova improve the identification and assistance of child victims of trafficking, including appropriate accommodation and ensuring long-term monitoring of the reintegration of child victims of trafficking. The Committee also notes the CRC's indication, in its concluding observations of October 2017, that it is concerned about inadequate rehabilitation and reintegration services of victims of trafficking in persons (CRC/C/MDA/CO/4-5, paragraph 40). The Committee requests the Government to take all the necessary steps to ensure that child victims of trafficking are removed from this worst form of child labour and provided with appropriate services for their rehabilitation and social integration. It requests the Government to provide information on the number of child victims of trafficking who have been removed and provided with assistance.

Clause (d). Identifying and reaching out to children at special risk. 1. Roma children. In its previous comments, the Committee noted the various measures taken by the Government to strengthen access to education for Roma children. It noted however from the UNICEF Moldova report of 2014 that many Roma children were still not attending school. In communities that are almost exclusively Roma, only half the number of children attended primary and secondary education, compared to almost 100 per cent of non-Roma children. The Committee thus encouraged the Government to pursue its efforts to increase Roma children's access to free, basic and quality education and to reduce their school drop-out rates.

The Committee notes the Government's indication that it has undertaken a number of measures to enhance the participation of Roma children, particularly girls, in education. The Government organized awareness-raising campaigns, provides free school meals and free text books for all children of grades 1 to 4 and for children of grades 5 to 12 from social vulnerable families, provides free transportation to school, and financially supports Roma children at the beginning of every academic year to help pay for school supplies, clothing and shoes. The Committee notes that an Action Plan for preventing and combating school drop-out and absenteeism was approved in 2015. The Government states that Roma children who do not attend school are identified. It indicates that there are currently about 483 Roma children attending school and 95 Roma children attending pre-school programmes.

The Committee notes that, in its concluding observations of October 2017, the Committee on Economic, Social and Cultural Rights indicated that the Government adopted an Action Plan for supporting the Roma population for the period 2016-2020 (E.C.12/MDA/CO/3, paragraph 22). The Committee also notes that, according to an article released by the Organization for Security and Co operation in Europe (OSCE), the Memorandum of Understanding signed on 15 November 2018, which is a tool to support the implementation of the National Strategy for Consolidation of Interethnic Relations until 2027, places a specific focus on the national minorities' right to education. The Committee notes the Report of the Special Rapporteur on minority issues of January 2017, according

to which Roma girls are particularly vulnerable to dropping out of school, especially because child marriage exists (A/HRC/34/53/Add.2, paragraph 69). Noting that Roma children are at an increased risk of being engaged in the worst forms of child labour, the Committee encourages the Government to continue its efforts to increase access to free basic education for Roma children, with a particular focus on girls. It requests the Government to provide information on the impact of the measures taken by the Government, including the Action Plan for preventing and combating school drop-out and absenteeism and the Action Plan for supporting the Roma population 2016–20, particularly with regard to ensuring completion of education and reducing school drop-out rates.

2. Children deprived of parental care. The Committee notes that, in its concluding observations of October 2017, the Committee on Economic, Social and Cultural Rights expressed concern at the deplorable situation of about 100,000 children left behind by their migrant parents, illustrated by high school drop-out rates (E/C.12/MDA/CO/3, paragraph 28). It notes that according to the Report on Observance of Human Rights and Freedoms in the Republic of Moldova in 2017, there are frequent cases of children whose parents have left the country for long term without having designated a legal representative of the child, and that children deprived of parental care are weakly protected. The Committee requests the Government to provide information on the measures taken to protect children left without parental care from the worst forms of child labour.

Application of the Convention in practice. The Committee previously noted that 39 violations related to the engagement of young persons in prohibited works were detected by the labour inspectors in 2012. In 2013 and 2014, five and four such violations were detected, respectively. The Committee requested the Government to continue to provide information on the nature, extent and trends of the worst forms of child labour and on the number and nature of infringements reported, investigations, and penalties applied.

The Committee notes the absence of information from the Government on this matter. It notes that the People's Advocate for the Rights of the Child indicates, in the Report on Observance of Human Rights and Freedoms in the Republic of Moldova in 2017, that child labour is a serious issue in Moldova, which involves children undergoing heavy, dangerous and long-lasting work, trafficking of children, children sexually exploited and children engaged in other illicit activities such as begging and drug trafficking. The Committee requests the Government to take the necessary measures to ensure that children are protected in practice against the worst forms of child labour. It requests the Government to provide statistical information on the nature, extent and trends of the worst forms of child labour.

The Committee addressed similar and other concerns in its Direct Request in [2018](#).

## **Article 8 - Maternity Protection**

### ***Convention N° 183 - Maternity Protection***

- [Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Maternity Protection Convention, 2000 \(No. 183\)](#)

Article 3 of the Convention. Health protection. In its previous comments, the Committee requested the Government to provide information on the occupations considered dangerous or posing a risk to the health of mothers and children. The Committee further requested the Government to indicate the measures taken to reduce occupational risks and guarantee a safe working environment for pregnant and breastfeeding workers and their children.

Notwithstanding the absence of a reply from the Government, the Committee observes that a number of legislative provisions have been adopted since it last examined the application of this Article of the

Convention. The Committee notes, in particular, that section 248 of the Labour Code, as amended by the Act No. 155 of 20 July 2017, prohibits the performance of work that poses a risk to the safety and health of pregnant women, women who have recently given birth and breastfeeding women. Moreover, the Government's Decision No. 1408 of 27 December 2016 on Minimum Occupational Safety and Health Requirements for the protection of pregnant women, women who have recently given birth and breastfeeding women, requires that employers carry out an assessment of workplace risks related to the safety and health of such women workers and inform them of the results of the assessment. In case of an identified workplace risk, an employer shall adapt the working conditions of a pregnant or breastfeeding woman or transfer her to another post (section 1 of the Decision of the Government No. 1408 of 27 December 2016). The Committee also notes that, pursuant to section 250(5) of the Labour Code, if a transfer to another post is not feasible, pregnant and breastfeeding women shall be released from their work duties with the preservation of the average wage for the period they are not able to work. The Committee takes due note of these legislative provisions.

Article 6(2) and (3). Maternity benefits paid out of social insurance. (i) Level of maternity allowances. In its previous comments, the Committee requested the Government to indicate how the amount of maternity allowances paid to women who did not qualify for maternity cash benefits related to the monthly subsistence minimum in the country.

In the absence of a reply from the Government, the Committee observes from the provisions of section 6(6) of the Act No. 289 of 22 July 2004 on Allowances for Temporary Incapacity for Work and Other Social Security Benefits, as amended in 2021, that all insured women qualify for maternity cash benefits since entitlement is not conditional upon the completion of a prescribed contribution period. The Committee further observes that, pursuant to section 7(7) of Act No. 289 of 22 July 2004, insured women who have contributed for less than 9 months in the last 24 months or who have a total contribution period of less than 3 years are entitled to maternity cash benefits at the rate of 35 per cent of the average monthly wage, as determined by the Government. In this connection, the Committee observes that, 35 per cent of the average monthly wage in 2021 (8,716 MDL as per the Government's Decision No. 923 of 22 December 2020) amounted to 3050.6 MDL (approximately 152.53 EUR) which was substantially higher than the monthly subsistence minimum of 2,082.7 MDL (approximately 105,09 EUR) for one person in 2020 (according to the data of the National Bureau of Statistics of the Republic of Moldova). The Committee takes due note of this information.

(ii) Level of maternity cash benefits for women workers in the public sector. The Committee observes that, while the monthly minimum wage in the private sector was equal to 2,775 MDL (approximately 138,75 EUR) in 2020 (Government's Decision No. 165 of 9 March 2010, as amended in 2019), the monthly minimum wage in the public sector was equal to 1,000 MDL (approximately 50 EUR) (Government's Decision No. 550 of 9 July 2014), which constitutes less than half of the monthly subsistence minimum of 2,082.7 MDL (approximately 104,13 EUR) for one person. Taking into account that the maternity cash benefit to which insured women with a total contribution period of at least 3 years are entitled by law is equal to 100 per cent of the average insured income for the last 12 months (sections 7(1) and 16(5) of Act No. 289 of 22 July 2004), the Committee observes that the benefit paid to women working in the public sector who earn less than the subsistence minimum for a given year may not be sufficient to meet their basic needs and their children's. In this connection, the Committee notes that, in 2019, the European Committee of Social Rights (ECSR) concluded that the Republic of Moldova was not in conformity with Article 8§1 of the European Social Charter, which requires the provision of adequate social security benefits during maternity leave, on the ground that the amount of maternity benefits is manifestly too low in the public sector.

The Committee recalls that Article 6(2) of the Convention requires that maternity cash benefits be at a level which ensures that all women protected can maintain themselves and their children in proper conditions of health and with a suitable standard of living. In view of the above, the Committee requests the Government to provide information on any additional maternity cash benefits provided to women workers in the public sector who earn less than the minimum subsistence level to ensure that they can maintain themselves and their children in proper conditions of health and with a suitable standard of living, as required by Article 6(2) of the Convention.

Article 9(2). Pregnancy test. In the absence of a reply from the Government, the Committee reiterates its request to the Government to indicate whether the introduction in the national legislation of a provision expressly prohibiting pregnancy tests or certificates of such a test when a woman is applying for employment is deemed necessary to ensure the application of Article 9(2) of the Convention. The Committee further requests the Government to provide information on any measure prohibiting employers, in practice, from requiring women to undertake or produce a certificate of such tests when applying for employment, including efforts to monitor or enforce such a measure and the results of such efforts.

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

### *Council of Europe – European Convention on Human Rights*

European Court of Human Rights, communicated case 9 January 2023, no 36436/22, [I.C. v. the Republic of Moldova](#)

**Subject matter of the case:** The claim concerns alleged breaches of the State's positive obligations in relation to allegations of sexual abuse and human trafficking of a mentally disabled person by her foster family.

The claimant was abandoned at birth by her parents and has always lived in public homes. On an unspecified date, she was diagnosed as suffering from "mental retardation" qualified as a disability of moderate severity. At the time of the events, she was living in a "centre for the temporary placement of disabled persons" (the "Centre").

In early 2013, L.P. and I.P. approached the Centre's administration about taking in one of their residents. On this occasion, they apparently expressed that they were looking for a companion for G.B., another person who lived and worked on their farm. The Centre initially agreed to two short stays for the applicant with the P.'s, and then, on 28 March 2013, she was entrusted to their care on a permanent basis.

The applicant was housed in a house near the P. farm. Until October 2018, she lived there with G.B. and both worked on the P. farm.

On 24 October 2018, following a complaint from an association for the disabled, the public prosecutor launched a criminal investigation into the sexual abuse of the claimant by I.P. During the investigation, evidence was gathered about the claimant's living and working conditions at the farm. In particular, she revealed that she worked there every day, from 4 a.m., without any pay.

Before referring the case to the court, the prosecutor changed the legal characterisation of the facts and charged the couple P. with trafficking in human beings for the purpose of sexual and labour exploitation.

The court that examined the merits of the case acquitted the defendants, concluding that there were no elements to characterise trafficking in human beings, taking the view that the applicant had been taken in by them under a legal process of family integration and that the payment of any salary fell within the sphere of civil relations. The charge of sexual exploitation was dismissed by the court on the grounds that I.P. did not have a sexually transmitted disease, which was present in the applicant. The acquittal was upheld on appeal and by the Supreme Court of Justice on 1 December 2021.

From the standpoint of Articles 3, 4 and 8 of the Convention, the applicant alleged that, while living with the P. family, she had been subjected to slavery and sexual abuse in a context of trafficking in human beings and that the Moldovan authorities had failed to fulfil their positive obligations to protect her from such treatment, as well as their obligation to conduct an effective investigation into her allegations.

Invoking the same articles in conjunction with Article 14 of the Convention, the applicant alleged that the circumstances of the present case disclosed discriminatory treatment against her on grounds of sex and disability.

Under Article 6 § 1 of the Convention, she complained that no reasons had been given for the judicial decisions in respect of the allegations of sexual abuse made against I.P. before the domestic courts.

Lastly, she considered that she did not have a domestic remedy under Article 13 in conjunction with Articles 3 and 4 of the Convention to pursue her allegations of trafficking in human beings and sexual abuse.

**Questions to the parties:** 1. Does the treatment alleged by the applicant in the present case fall within the scope of Articles 3, 4 and 8 of the Convention (see *S.M. v. Croatia* [GC], no. 60561/14, §§ 241-242 and 279-297, 25 June 2020, and *I.C. v. Romania*, no. 36934/08, § 52, 24 May 2016)?

2. If so, in the light of the State's positive obligations under Articles 3, 4 and 8 of the Convention to ensure effective protection of persons against the various forms of violence, in particular where vulnerable categories of persons are concerned,

(a) Was there an appropriate legislative and regulatory framework in the Republic of Moldova to prevent and punish effectively the treatment alleged by the applicant (see *Rantsev v. Cyprus and Russia*, no. 25965/04, § 285, ECHR 2010 (extracts), and *X and Others v. Bulgaria* [GC], no. 22457/16, §§ 178-179, 2 February 2021)?

b) Were the Moldovan authorities aware, or should they have been aware, of the risks incurred by the applicant in the context of her deinstitutionalisation? If so, did they implement sufficient protection mechanisms to counter any risks to the applicant's physical and moral integrity when she was placed in foster care (see *Rantsev*, cited above, §§ 286-287; see also *X and Others v. Bulgaria* [GC], cited above, § 183)?

(c) Did the authorities' investigation of the applicant's allegations comply with the procedural requirements under these Articles of the Convention (see *Rantsev*, cited above, § 288; *S.M. v. Croatia*, cited above, §§ 312-320; and *I.G. v. Moldova*, no. 53519/07, § 42, 15 May 2012)?

3. Was the applicant discriminated against in the exercise of her rights under the Convention on grounds of sex and/or disability contrary to Article 14 of the Convention in conjunction with Articles 3, 4 and 8 of the Convention (*Y and Others v. Bulgaria*, no. 9077/18, § 122, 22 March 2022)?

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/MDA/CO/6: Committee on the Elimination of Discrimination against Women- Concluding observations on the sixth periodic report of the Republic of Moldova \(2020\)](#)

The Committee notes with appreciation the reduction in the difference between the retirement ages for women and men and the State party's plan to complete the harmonization of retirement ages by 2028. It further welcomes that the State party has introduced paid parental leave. However, the Committee remains concerned at:

[...]

(e) The lack of affordable childcare facilities that would better enable parents to reconcile family and professional life;

The Committee draws attention to target 8.5 of the Sustainable Development Goals and recommends that the State party:

[...]

(e) Promote the equal sharing of family and domestic responsibilities between women and men, including by encouraging men to take paternity leave, and increase access to affordable, inclusive and accessible childcare facilities;

## **Montenegro**

### **Article 8 - Maternity Protection**

#### *Convention N° 183 - Maternity Protection*

- [Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Maternity Protection Convention, 2000 \(No. 183\)](#)

Article 3 of the Convention. Health protection. Further to its previous request on the measures in place for the health protection of pregnant and breastfeeding women, the Committee notes the indication by the Government in its report that, pursuant to sections 14–17 of the Act on Health and Safety at Work of 2014, employers are required to take measures to prevent and eliminate workplace risks related to the safety and health of pregnant and breastfeeding women, including the assessment of workplace risks. The Committee further notes, and welcomes, the adoption in 2020 of the Rulebook on measures of safety and health at work that lists dangerous physical, biological, and chemical agents as well as working conditions to which pregnant and breastfeeding women shall not be exposed (section 8). The Committee takes due note of this information.

Article 6(2)(6). Adequate benefits out of social assistance funds. In its previous comments, the Committee requested the Government to provide information on the sufficiency of the benefits provided under the Act on Social and Child Protection to ensure the maintenance of the mother and her child in proper conditions of health and with a suitable standard of living.

The Committee observes from the information provided by the Government that the monthly amount of financial support for a family with two members is equal to EUR 76.20 and the monthly amount of child allowance is EUR 19 for a beneficiary of financial support (sections 31(2) and 44(1) of the Act on Social and Child Protection). In addition, according to the Government, a lump-sum payment of EUR 130.88 is provided for a new-born child to women with low or no income. The Committee therefore observes that the total amount of the benefits paid to women who do not qualify for social insurance maternity benefit during the statutory maternity leave of 14 weeks is equal to EUR 416.48 or EUR 138.82 per month. The Committee observes that this amount is below the national absolute poverty line, which corresponded to EUR 186.45 per person per month in 2013 (the latest available data, according to the Statistical Office of Montenegro). In view of the above, the Committee requests the Government to provide information on any additional cash benefits provided to women workers who do not qualify for social insurance maternity benefits, in case of maternity or in respect of their children, to ensure that they can maintain themselves and their children in proper conditions of health and with a suitable standard of living, as required by Article 6(2) of the Convention.

Article 6(7). Medical care benefits. Further to its previous request on maternity medical care benefits, the Committee takes due note of the Government's indication that, pursuant to section 19(1)(2) of the Act on Compulsory Health Insurance, women are exempted from making co-payments during pregnancy, childbirth and one year after delivery.

Article 8(1). Burden of proof in case of illegal dismissal. Further to its previous request on the burden of proof in case of dismissal of pregnant and breastfeeding women, the Committee takes due note of the provisions of section 142(4) of the Labour Act, according to which the burden of proving the existence of a just cause for the termination of the employment contract shall rest with the employer.

Article 10(2). Breastfeeding breaks. Further to its previous request on nursing breaks, the Committee takes due note that, pursuant to section 129 of the Labour Act, an employed woman is entitled to nursing breaks

Article 3 of the Convention. Health protection. In its previous comments, the Committee requested the Government to provide information on the occupations considered dangerous or posing a risk to the health of mothers and children. The Committee further requested the Government to indicate the measures taken to reduce occupational risks and guarantee a safe working environment for pregnant and breastfeeding workers and their children.

Notwithstanding the absence of a reply from the Government, the Committee observes that a number of legislative provisions have been adopted since it last examined the application of this Article of the Convention. The Committee notes, in particular, that section 248 of the Labour Code, as amended by the Act No. 155 of 20 July 2017, prohibits the performance of work that poses a risk to the safety and health of pregnant women, women who have recently given birth and breastfeeding women. Moreover, the Government's Decision No. 1408 of 27 December 2016 on Minimum Occupational Safety and Health Requirements for the protection of pregnant women, women who have recently given birth and breastfeeding women, requires that employers carry out an assessment of workplace risks related to the safety and health of such women workers and inform them of the results of the assessment. In case of an identified workplace risk, an employer shall adapt the working conditions of a pregnant or breastfeeding woman or transfer her to another post (section 1 of the Decision of the Government No. 1408 of 27 December 2016). The Committee also notes that, pursuant to section 250(5) of the Labour Code, if a transfer to another post is not feasible, pregnant and breastfeeding women shall be released from their work duties with the preservation of the average wage for the period they are not able to work. The Committee takes due note of these legislative provisions.

Article 6(2) and (3). Maternity benefits paid out of social insurance. (i) Level of maternity allowances. In its previous comments, the Committee requested the Government to indicate how the amount of maternity allowances paid to women who did not qualify for maternity cash benefits related to the monthly subsistence minimum in the country.

In the absence of a reply from the Government, the Committee observes from the provisions of section 6(6) of the Act No. 289 of 22 July 2004 on Allowances for Temporary Incapacity for Work and Other Social Security Benefits, as amended in 2021, that all insured women qualify for maternity cash benefits since entitlement is not conditional upon the completion of a prescribed contribution period. The Committee further observes that, pursuant to section 7(7) of Act No. 289 of 22 July 2004, insured women who have contributed for less than 9 months in the last 24 months or who have a total contribution period of less than 3 years are entitled to maternity cash benefits at the rate of 35 per cent of the average monthly wage, as determined by the Government. In this connection, the Committee observes that, 35 per cent of the average monthly wage in 2021 (8,716 MDL as per the Government's Decision No. 923 of 22 December 2020) amounted to 3050.6 MDL (approximately 152.53 EUR) which was substantially higher than the monthly subsistence minimum of 2,082.7 MDL (approximately 105,09 EUR) for one person in 2020 (according to the data of the National Bureau of Statistics of the Republic of Moldova). The Committee takes due note of this information.

(ii) Level of maternity cash benefits for women workers in the public sector. The Committee observes that, while the monthly minimum wage in the private sector was equal to 2,775 MDL (approximately 138,75 EUR) in 2020 (Government's Decision No. 165 of 9 March 2010, as amended in 2019), the monthly minimum wage in the public sector was equal to 1,000 MDL (approximately 50 EUR) (Government's Decision No. 550 of 9 July 2014), which constitutes less than half of the monthly subsistence minimum of 2,082.7 MDL (approximately 104,13 EUR) for one person. Taking into account that the maternity cash benefit to which insured women with a total contribution period of at least 3 years are entitled by law is equal to 100 per cent of the average insured income for the last 12 months (sections 7(1) and 16(5) of Act No. 289 of 22 July 2004), the Committee observes that the benefit paid to women working in the public sector who earn less than the subsistence minimum for a given year may not be sufficient to meet their basic needs and their children's. In this connection, the Committee notes that, in 2019, the European Committee of Social Rights (ECSR) concluded that the Republic of Moldova was not in conformity with Article 8§1 of the European Social Charter, which requires the provision of adequate social security benefits during maternity leave, on the ground that the amount of maternity benefits is manifestly too low in the public sector.

The Committee recalls that Article 6(2) of the Convention requires that maternity cash benefits be at a level which ensures that all women protected can maintain themselves and their children in proper conditions of health and with a suitable standard of living. In view of the above, the Committee requests the Government to provide information on any additional maternity cash benefits provided to women workers in the public sector who earn less than the minimum subsistence level to ensure that they can maintain themselves and their children in proper conditions of health and with a suitable standard of living, as required by Article 6(2) of the Convention.

Article 9(2). Pregnancy test. In the absence of a reply from the Government, the Committee reiterates its request to the Government to indicate whether the introduction in the national legislation of a provision expressly prohibiting pregnancy tests or certificates of such a test when a woman is applying for employment is deemed necessary to ensure the application of Article 9(2) of the Convention. The Committee further requests the Government to provide information on any measure prohibiting employers, in practice, from requiring women to undertake or produce a certificate of such tests when applying for employment, including efforts to monitor or enforce such a measure and the results of



such efforts. for two hours per day until a child reaches the age of one year and that the nursing breaks count as working time.

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/MNE/CO/2-3 Committee of the Right of the Child [Concluding observations on the combined second and third periodic reports of Montenegro](#) (22 June 2018)

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/MNE/CO/2-3 Committee of the Right of the Child [Concluding observations on the combined second and third periodic reports of Montenegro](#) (22 June 2018)

## ***Netherlands***

### **Article 7 ESC - Protection of young persons**

#### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/NLD/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of the Kingdom of the Netherlands](#) (9 March 2022)

### **Article 8 - Maternity Protection**

#### ***Convention N° 183 - Maternity Protection***

- [Observation \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Maternity Protection Convention, 2000 \(No. 183\)](#)

The Committee notes the observations of the National Federation of Christian Trade Unions (CNV) and the Netherlands Trade Union Confederation (FNV) communicated with the Government's report.

Article 9(1) of the Convention. Discrimination in employment, including access to employment. With respect to its previous request to take measures to effectively tackle the problems of application in practice of the prohibition of discrimination based on maternity, the Committee takes note of the adoption in 2017 of the Action Plan against Pregnancy Discrimination, which aims to strengthen labour inspections, increase pregnant women's knowledge and awareness of their rights, and increase the willingness to report cases of pregnancy discrimination. According to the Government, the measures taken under the Action Plan against Pregnancy Discrimination included the launch by the Netherlands Institute for Human Rights of a hotline to report cases of discrimination and conduct of the anti-discrimination campaign in the labour market. The Government further indicates that, pursuant to the

2020 report of the Netherlands Institute for Human Rights on the impact of pregnancy and parenthood on women's employment opportunities, the incidence of pregnancy discrimination is persistent. In this respect, the Committee notes the observations of the CNV and the FNV indicating that 43 per cent of pregnant women experience some form of discrimination and that women in temporary employment are particularly vulnerable to the discriminatory treatment. While acknowledging the efforts undertaken by the Government under the Action Plan against Pregnancy Discrimination of 2017, the CNV and the FNV allege the lack of sanctions imposed on employers for discrimination on the grounds of pregnancy and maternity. The Committee requests the Government to continue to take measures to ensure that maternity does not constitute a source of discrimination in employment, pursuant to Article 9 of the Convention. The Committee further requests the Government to provide information on the impact of the Action Plan against Pregnancy Discrimination of 2017 in reducing discrimination in employment on the ground of maternity. It also requests the Government to provide detailed information on the number of cases involving discrimination in employment based on maternity detected by or reported to labour inspectors or the courts, as well as the sanctions imposed on employers and remedies provided to victims.

The Committee is raising other matters in a [request](#) addressed directly to the Government.

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/NLD/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of the Kingdom of the Netherlands](#) (9 March 2022)

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/NLD/CO/5-6 Committee of the Right of the Child [Concluding observations on the combined fifth and sixth periodic reports of the Kingdom of the Netherlands](#) (9 March 2022)

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

### ***United Nations Human Rights Committee***

[CCPR/C/NLD/CO/5: Human Rights Committee – Concluding observations on the fifth periodic report of the Netherlands \(2019\)](#)

[The Committee] It is also concerned by the growing number of migrant workers, particularly from Poland and Hungary, who are coerced by employment agencies to work under exploitative conditions. As regards the Caribbean part of the Kingdom, the Committee is concerned that there are growing

reports of human smuggling and trafficking; that victims of trafficking, especially women, have reportedly been subjected to inhumane and degrading treatment, including sexual violence; and that the response of the relevant authorities is not adequate and often fails to identify and protect victims or to prosecute perpetrators.

The State party should:

- (a) Establish effective complaint procedures to allow migrant workers, including those in irregular situations and victims of trafficking, to file complaints without fear of reprisal or deportation;
- (b) Ensure that cases of trafficking and labour exploitation are thoroughly investigated, those responsible are prosecuted and, if found guilty, are sentenced appropriately, and victims are provided with full reparation and appropriate protection and assistance;
- (c) Strengthen labour inspections in those sectors where most migrant workers are prevalent, particularly those from Poland and Hungary;

***Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention***

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\) Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#)

The Committee notes the joint observations of the National Federation of Christian Trade Unions (CNV), the Netherlands Trade Union Confederation (FNV) and the Trade Union Federation for Professionals (VCP) received on 31 August 2017.

Article 1 of the Convention. Information on migration flows, and laws and regulations relating to emigration and immigration. In its previous comment, the Committee had requested the Government to provide statistical information on migration flows. The Committee takes note of the information provided by the Government in its report indicating that in 2016, a total of 4,535 work permits had been issued to non-EU nationals and that the first countries of origins were India (1,559 permits), the United States (587 permits), and China (377 permits). The Committee further notes the indication from the Government that the current immigration policies favour the immigration of skilled migrant workers. In this regard, the Government indicates that the requirements for workers in start-up companies and graduate students to remain in the country to seek and pursue high skilled employment have been relaxed. In addition, according to the statistical data published by the Central Bureau of Statistics (CBS), the Committee notes that in 2017, 49.4 per cent of the jobs filled by foreign workers were occupied by EU citizens (of whom 43.5 per cent were Polish nationals), and that migrant workers were mainly employed in the sectors of business services and agriculture.

Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. The Committee previously noted the FNV's comments that the free movement of service is increasing and should be better regulated, and requested the Government to provide information on the implementation of European Directive 96/71/EC on the posting of workers in the framework of the provision of services. The Committee notes that the Government indicates that the Minister of Social Affairs and Employment took the initiative, together with six ministers from other EU Members States, to send suggestions to the European Commission in order to find a better balance between free movement of services and the protection of workers' rights. This initiative led to the adoption of Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. In this regard, the Committee welcomes the adoption of Directive (EU) 2018/957, pursuant to which Member States of the European

Union shall apply to posted workers the terms and conditions of employment of the host country in a series of matters, that include remuneration, maximum work periods and minimum rest periods, minimum paid annual leave, minimum age, health, safety and hygiene at work, and accommodation. The Committee notes that Member States of the European Union shall adopt by 30 July 2020, the laws, regulations and administrative provisions necessary to comply with this Directive. On the application of the EU Directives on the posting of workers in practice, the Committee notes the concerns expressed by the Government concerning their improper or abusive use. The Committee also notes that in their observations, the CNV, the FNV, and the VCP call for a better implementation of the existing instruments to combat undesirable, exploitative and illegal practices against posted workers, including through the strengthening of the capacity of the labour inspectorate and an increased transnational cooperation. The Committee requests the Government to provide information on the measures taken to ensure that posted migrant workers benefit from the protections provided for by the Convention in practice.

Article 3 and Annex I, Article 3. Measures against misleading propaganda and supervision of private agencies. In its previous comment, the Committee noted the Government and FNV's statement that a high number of European migrant workers were victims of abusive arrangements made by private employment agencies and requested information on the supervision of these agencies. The Committee also noted the Government's indication that all parties agreed that further improvements were needed with regard to the self-regulation of private employment agencies. The Committee notes the Government's information that a series of measures have been agreed upon with the social partners, leading to the improvement of the quality of the inspections and a better exchange of information between the Tax and Customs Administration, the labour inspectorate (SZW), and the foundations in charge of the self-regulation of private employment agencies (such as the Labour Standards Foundation (SNA), and the Collective Labour Agreement for Temporary Agency Workers Foundation (SNCU). In their observations, the CNV, the FNV, and the VCP, point out that the SNA issues certificates of compliance with the applicable standards to employment agencies that use schemes such as bogus self-employment, subcontracting and outsourcing to evade the application of the Collective Labour Agreement for Temporary Employment Agencies – resulting in unequal treatment and abuses. In this regard, the Committee takes note of the Government's indication that the Dutch Labour Market Fraud (Bogus Schemes) Act, which penalizes exploitation, displacement, and unfair competition in labour conditions, was adopted in July 2015. In that regard, the Committee notes that the United Nations Human Rights Committee expressed concern about the growing number of migrant workers, particularly from Poland and Hungary, who are coerced by employment agencies to work under exploitative conditions. (CCPR/C/NLD/CO/5, 22 August 2019, paragraph 26). The Committee requests the Government to provide further information on the measures taken to regulate and supervise the activities of private employment agencies and the obstacles encountered.

Article 6(1)(a)(i). No less favorable treatment with respect to remuneration. Legislative developments. In its previous comment, the Committee noted the Government's efforts to limit the deductions of housing and health insurance costs from the wages of migrant workers and requested information on the application of the principle of equal treatment with respect to remuneration. The Committee notes with interest the indication from the Government that the Dutch Labour Market Fraud (Bogus Schemes) Act (WAS), adopted in July 2015, introduced a joint liability for the payment of wages, from the lead principal contractor to the subcontractor. The Government also indicates that in order to avoid frauds: (i) the WAS introduced the obligation to pay at least the amount of the statutory minimum wage by bank transfer; (ii) real costs could no longer be deducted from the minimum wage – with the exception, under strict conditions, of average nominal premiums for health insurance and housing costs; and (iii) that deductions for housing costs are not authorized when the employer is responsible for providing housing to the workers (as is often the case for migrant workers). The

Government adds that on 1 January 2017, corresponding changes were introduced in the Minimum Wage and Minimum Holiday Act. The Committee takes note of this information.

Article 6(1)(a)(iii). No less favorable treatment with regard to accommodation. The Committee notes the Government's indication, in reply to its previous request for information on compliance with the applicable housing standards for migrant workers, that adequate housing standards are set in the collective agreement of the Federation of Private Employment Agencies (ABU) and the collective agreement of the Dutch Association of Job Placement Services and Private Employment Agencies (NBBU). The Government adds that a number of basic requirements for accommodations have also been included in the Collective Labour Agreement for Temporary Agency Workers and that ABU and NBBU members who work with migrants workers must meet the accommodation requirements set down in this agreement. The Government further indicates that the Foundation for Flexible Housing Standards (SNF) audits on a yearly basis the accommodation offered to migrant workers and that ABU and NBBU review whether their members comply with these accommodation standards. The Committee notes that, in their joint observations, the FNV, the CNV and the VCP indicate that ABU and NBBU do have standards on accommodation but points out that there are no guidelines on the housing price and that migrant workers are often offered zero or few hours contracts, just sufficient to pay for the bed rental and that if they are working more hours the bed rental price increases. The Committee asks the Government to provide information on the price-fixing for the rental of accommodation to migrant workers, as well as on the activities of the foundations and the labour inspectorate to enforce the minimum standards for the accommodation of foreign workers.

Enforcement. The Committee notes that, in their observations, the FNV, the CNV and the VCP highlight that there is a pressing need to enforce existing legislation applicable to the employment of migrant workers and that most infringements relate to the non-payment of minimum wages and unlawful deductions. The Committee notes that, while the FNV, the CNV and the VCP acknowledge that the WAS represents an advancement, they also indicate that in practice, it is difficult for migrant workers to file claims as they depend on their employer for their salary but also, in most cases, for housing. Therefore, the three organizations also call for a deeper cross-border cooperation between labour inspectorates, tax authorities and social insurance funds to combat fraud, such as bogus self-employment schemes. Regarding labour inspection, the Committee takes note of the Government's indication that the labour inspectorate verifies whether employers comply with the national legislation on labour protection, focusing mainly on higher risk sectors such as agriculture, cleaning, intermediaries and construction. Furthermore, the Committee notes the Government's indication that the Netherlands Institute for Human Rights (SIM) registered a number of discrimination complaints on the grounds of race and nationality. In this regard, the Committee also refers to its 2017 observation on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No.111), in which it noted the rising trend in the number of cases of racial discrimination reported to the SIM and the Anti-Discrimination Services (ADVs). The Committee requests the Government to provide further information on the activities of the labour inspectorate, such as, for example, information on the number of violations detected and on the sanctions imposed, to ensure that, in practice, migrant workers are not treated less favorably than nationals with regard to the matters covered by the Convention (and, in particular, with regard to remuneration). It also asks the Government to provide information on the number and nature of cases of less favorable treatment of migrant workers dealt with by the Netherlands Institute for Human Rights, the Anti-Discrimination Services, and the courts.

## *Netherlands Aruba*

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

#### *Convention N° 138 - Minimum Age Convention*

- [Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\) Minimum Age Convention, 1973 \(No. 138\)](#)

The Committee notes with concern that the Government's report has not been received. It is therefore bound to repeat its previous comments.

#### Repetition

Article 3(2) of the Convention. Determination of types of hazardous work. In its previous comments, the Committee noted the Government's indication that the proposal to allow the Director of the Labour Department to determine the types of hazardous work was with the Department of Legislation for technical evaluation and revision. The Committee urged the Government to take the necessary measures to ensure that, following the approval of the Department of Legislation, the Director of the Labour Department determines the types of hazardous work at the earliest possible date.

The Committee notes with satisfaction that the Government adopted Ministerial Decree No. 78 of 2013 which contains a list of types of hazardous work prohibited to young persons under the age of 18 years. This list comprises work involving lifting or pulling heavy weights; working continuously in the same position; work involving contact with toxic, carcinogenic, mutagenic substances as well as explosives, irritants or corrosive substances; work with wild, poisonous or dangerous animals; slaughtering of animals; work in establishments providing alcohol; work with or near dangerous machines or equipment involving fire, explosion, electrocution, bottlenecks, harvesting, cutting; work under water; work with devices that have harmful non-ionizing electromagnetic radiation; work with compressed gases; work exposing children to high noise and vibration; work in environments causing a risk of collapse; work near power lines; and work in hospitals. The Committee requests the Government to provide information on the implementation of Ministerial Decree No. 78, including the number and nature of violations regarding young persons engaged in hazardous work.

The Committee is raising similar and other matters in its observations in [2019](#) and [2018](#) and in its request addressed directly to the Government in [2020](#), [2019](#) and [2018](#).

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

#### *Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)*

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

The Committee notes that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments.

#### Repetition

Article 3. Worst forms of child labour. Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee previously noted that section 49(1)(b) of the Penal Code penalizes a person who, through gifts, promises, abuse of authority,

violence, threat or deception or, through providing an opportunity, the means or information, deliberately provokes an offence. It noted the Government's information that causing a child to commit an illegal activity falls under the provisions of section 49(1)(b) of the Penal Code dealing with criminal perpetration. The Committee requested the Government to provide information on any prosecutions and convictions made under section 49(1)(b) of the Penal Code with regard to the use, procuring or offering of a child under 18 years for the production and trafficking of drugs.

The Committee notes the Government's information in its report that from 2015 to May 2020 there were no cases regarding the use, procuring or offering of a child for illicit activities, including the production and trafficking of drugs. The Committee, however notes from the UNODC World Drug Report of 2021 that western Caribbean and Caribbean routes remain the main cocaine trafficking routes from Colombia to the north. It also notes that the Committee on the Rights of the Child, in its concluding observations of 2015, expressed concern at the large numbers of children engaged in tobacco and marijuana abuse (CRC/C/NLD/CO/4 paragraph 46). In this regard, the Committee requests the Government to indicate the measures taken or envisaged, both in law and in practice, to protect children under the age of 18 years from becoming engaged in offences related to drug trafficking. It also requests the Government to continue providing information on the application in practice of section 49(1)(b) of the Penal Code in relation to the using or procuring of children for drug-related offences.

Articles 3(d) and 4(1). Determination of hazardous work. With regard to the comments made by the Committee under the Minimum Age Convention, 1973 (No.138) concerning the implementation of the Ministerial Decree No. 78 of 2013, the Committee notes the Government's information that there were no incidents of violations registered regarding young persons engaged in hazardous work during June 2015 to May 2020.

Article 7(2) of the Convention. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes the information provided by the Government in its report of 2020 under the Minimum Age Convention, 1973 (No. 138) that all children aged between four and 16 residing legally or illegally in Aruba are entitled to compulsory education under the Compulsory Education Act of 2012. The Committee, however, notes that according to the 2021 Refugee and Migrant Response Plan (RMRP) of the Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), including UN agencies), there are still challenges in guaranteeing quality education to children of refugees and migrants from Venezuela, especially with the changed educational pattern due to COVID-19. This report indicates that the costs of connectivity, computer equipment, school supplies, uniforms, and the lack of information for parents on enrolment procedures often discourage families from enrolling their children in schools. Moreover, the administrative or practical barriers to school enrolment places families with irregular status or limited financial means at a disadvantage. The Committee requests the Government to provide information on the measures taken or envisaged, taking into account the current educational pattern of e-learning and digitalized platforms, to facilitate access to free basic education of disadvantaged children, including refugee and migrant children.

Clause (d). Identifying and reaching out to children at special risk. Refugee, migrant and unaccompanied children. The Committee notes that according to the 2021 RMRP of the R4V, since 2018, the five countries of the Sub-region, including Aruba, hosted an increasing number of refugees and migrants from Venezuela, as well as significant numbers of Guyanese descendants returning from Venezuela. This report also states that due to the COVID-19 containment measures, many of these groups, in particular unaccompanied and separated children are vulnerable to trafficking and exploitative labour practices. The Committee requests the Government to take effective and time-

bound measures to ensure that refugee, migrant and unaccompanied children are protected from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard.

Application of the Convention in practice. The Committee notes the absence of any statistical data on the number of children engaged in the worst forms of child labour in Aruba.

The Committee notes the Government's indication in its Combined fifth and sixth periodic reports of May 2021 submitted to the Committee on the Rights of the Child that quantitative data, disaggregated by age, gender and nationality, on the situation of children and young persons and covering matters such as education and employment status, is collected in the Youth Monitor. The Government also indicated in this report that the Youth Monitor is updated on a regular basis and is due to be published in the near future (CRC/C/NLD/5-6, paragraphs 242 and 250). The Committee requests the Government to provide a copy of the Youth Monitor, once published. It also requests the Government to supply copies or extracts from official documents including inspection reports, studies and inquiries, and to provide information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention and the number and nature of infringements reported.

The Committee raised similar and other concerns in its Direct Requests of [2021](#), [2020](#), [2019](#) and [2018](#).

## ***North Macedonia***

### **Article 7 - Protection of young persons**

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/MKD/CO/3-6 Committee of the Right of the Child [Concluding observations on the combined third to sixth periodic reports of North Macedonia](#) (20 October 2022)

#### ***Convention N° 138 - Minimum Age Convention***

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Minimum Age Convention, 1973 \(No. 138\)](#)

The Committee notes that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments.

#### **Repetition**

Article 2(1) of the Convention. Scope of application. The Committee previously noted that the provisions relating to the minimum age for admission to employment or work in the Labour Relations Law did not apply to work performed outside a formal labour relationship, such as self-employment or work in the informal economy. Moreover, the Committee noted that the Committee on the Rights of the Child (CRC), expressed concern regarding the incidence of child labour in the informal economy, including in street vending at intersections, on street corners and in restaurants. The Committee also noted the Government's information that, according to the data collected through the labour inspectorate, no children under 15 years of age were found to be engaged in work. However, the



Committee observed that, as stated by the CRC, most child labour in the Republic of Macedonia seemed to occur in the informal economy.

The Committee once again notes the Government's information in its report that, there were no workers younger than 15 years detected in formal employment by the labour inspectors, however, the labour inspection services do not cover younger people who perform certain types of work within the family household in individual agricultural production. In this regard, the Committee recalls that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution (see General Survey on the fundamental Conventions, 2012, paragraph 345). The Committee accordingly once again requests the Government to take measures to ensure that all children carrying out economic activities without an employment contract, particularly children working in the informal economy, benefit from the protection afforded by the Convention. In this regard, the Committee once again urges the Government to take measures to expand the reach and strengthen the capacity of the labour inspection services to better monitor the work performed by young persons in the informal economy. The Committee requests the Government to provide information on the measures taken in this regard and on the progress achieved.

Article 7. Light work. The Committee previously noted that, pursuant to section 18(2) of the Labour Relations Law, a person under the age of 15 who has not completed compulsory schooling may work for a maximum of four hours a day in activities determined by law. In this regard, the Committee reminded the Government that Article 7(1) of the Convention allows children between the ages of 13 and 15 to engage in light work and that, pursuant to Article 7(3) of the Convention, the competent authority shall determine the activities in which light work may be permitted. The Committee noted the Government's statement that it would take the Committee's comments on this point into consideration when next amending the Labour Law.

The Committee notes that Government's statement that, the subsequent amendments of the Labour Relations Law will determine the minimum age for light work as 13 years, as well as the types of light work that may be performed by children between 13 and 15 years of age. The Committee requests that the Government take the necessary measures to ensure that the amendments of the Labour Relations Law are adopted in the near future, and provide a copy once they are adopted.

Application of the Convention in practice. The Committee notes the Government's information in its report that, approximately, 584 children of 15 years of age, 687 of 16 years, and 797 of 17 years were employed in 2013, 779 children of 16 years of age and 578 children of 17 years of age were employed in 2014, while 939 children of 16 years of age and 1,059 children of 17 years of age were employed in 2015. However, the Committee notes the absence of information relating to children working below the minimum age for admission to employment of 15 years. The Committee requests that the Government continue to provide information on the manner in which the Convention is applied, including recent statistical data relating to the nature, scope and trends of the employment of young persons between the ages of 15 and 18 years and, where possible, information on the number of children working below the minimum age.

### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

***[- Observation \(CEACR\) - adopted 2022, published 111st ILC session \(2023\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

#### Repetition

Articles 3(a), 5 and 7(1) of the Convention. Trafficking in children, monitoring mechanisms and penalties. The Committee notes the Government's information in its report that, section 12 of the Law on Child Protection (amended in 2013) prohibits the sale and trafficking of children, in addition to the relevant provisions in the Criminal Code. The Committee also notes the Government's information that, in 2014, 18 perpetrators were accused and convicted of child trafficking, while in 2015, six perpetrators were accused and convicted.

The Committee also notes the Government's indication that a training for representatives of professional services on the prevention of human trafficking was conducted by the Public Institutions of Social Protection for Children at Risk, involving 14 employees in four institutions. Moreover, another training was conducted for police officers and social workers with 75 participants, focusing on the identification and referral of potential victims of human trafficking. In addition, a training has also been provided to foster families for ten caregivers regarding direct assistance and protection of child trafficking victims. The Committee also notes that the National Commission for Combating Human Trafficking keeps a database on all types of exploitation of victims of human trafficking. In 2015, three victims of human trafficking subjected to sexual and labour exploitation were identified, of which two were children. The Committee requests the Government to pursue its efforts to combat trafficking in children, and to continue to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied in this regard. It also requests the Government to pursue its efforts to ensure that victims of child trafficking are provided with appropriate protection and services. Lastly, the Committee encourages the Government to continue its efforts to strengthen the capacity of the mechanisms in place to ensure the effective monitoring and identification of child victims of trafficking.

Article 3(c). Use, procuring or offering a child for illicit activities, in particular the production and trafficking of drugs. The Committee previously noted that the Law on the Protection of Children did not penalize adults who use children for the illegal production and trafficking of drugs. The Committee noted the Government's statement that the relevant governmental institutions were taking the necessary measures to protect children from misuse and other types of abuse with respect to the illicit production and trade of drugs. It requested the Government to take the necessary measures to ensure that the use of a child for illicit activities, particularly the production and trafficking of drugs, is prohibited.

The Committee notes with satisfaction that section 12 of the Law on the Protection of Children, which was amended in 2015, prohibits any illicit activities and the use of child labour for the production and trafficking of drugs, and psychotropic substances. The Committee requests the Government to provide information on the application in practice of section 12 of the Law on the Protection of Children, including the number and nature of infringements, investigations, prosecutions, convictions and sanctions applied.

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Children in street situations. The Committee previously noted that, according to data from the Ministry of Labour and Social Policy (MLSP), there were approximately 1,000 children in street situations in the country, 95 per cent of whom were Roma, and that labour exploitation and begging contributed to this phenomenon. The Committee further noted the Government's information on the

measures adopted to protect children in street situations, including the expansion of the network of daily centres for street children. The Government also indicated that, in 2012, a national SOS helpline was created in order to receive calls from citizens who want to report on children in street situations.

The Committee notes the Government's information that the problem of children in street situations is becoming more prevalent. The MLSP is responsible for taking measures to reduce the number of street children. To date, the MLSP has opened four day centres for street children in Skopje, Bitola and Prilep, as well as a 24-hour transit centre in Ohrid. Moreover, the MLSP financially supported a day care centre managed by a civil association in Shuto Orizari. The Committee further notes the Government's statement according to which it is often the parents who use their children to beg with them or make their children beg. Thus, the amendments to the Law on Family of 2014 provide that inducing a child to beg or using a child for begging shall be considered as abuse or severe neglect in the performance of parental duties, in which case the Centre of Social Work shall intervene. Depending on the situation, measures may include professional advice, constant supervision, temporary guardianship of the concerned child by the social work centre, and proceedings to withdraw parental rights or to file a criminal complaint before a competent court. While taking due note of the measures taken by the Government, the Committee strongly encourages the Government to continue its efforts to protect children in street situations from the worst forms of child labour, and once again requests it to provide information on the number of children removed from the streets and who have benefited from rehabilitation and social integration measures.

The Committee is raising other matters in a [request](#) addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

## **Article 8 - Maternity Protection**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6 \(14 November 2018\)](#)

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/MKD/CO/6: Committee on the Elimination of Discrimination against Women - Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia \(2018\)](#)

The Committee welcomes the State party's efforts to improve public childcare allowances and the infrastructure of kindergartens in order to facilitate access for women to employment and the various programmes to promote that access, including the special pilot programme for the employment of persons belonging to the Roma ethnic community. It remains concerned, however, about the following:

[...]

(b) The low rate of participation of women in the labour market and the overrepresentation of women in unpaid care work and in the informal sector of economy;

(c) The fact that maternity leave is recognized only for women who are under formal employment agreements, which in practice excludes rural women;

### ***Convention N° 183 - Maternity Protection***

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Maternity Protection Convention, 2000 \(No. 183\)](#)

The Committee notes with concern that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments.

#### **Repetition**

The Committee notes the Government's first report which refers to the most up-to-date pieces of legislation which are not yet available to the Office. The Committee notes also that the report does not indicate the specific provisions of the legislation giving effect to the requirements of each of the articles of the Convention as requested in the report form. The Committee would be grateful if the Government could provide consolidated pieces of legislation, translated if possible into one of the working languages of the Organization, and in particular:

–the Labour Relations Law as of 2013;

–the Law on Health Insurance as of 2014;

–the Law on Occupational Safety and Health as of 2013; and

–the last version of the General collective agreement mentioned in the Labour Relations Law (section 27).

Should these laws be amended before the next reporting cycle, the Committee asks that the Government also provide a copy of these amendments.

A similar direct request was also addressed to North Macedonia in [2021](#).

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/MKD/CO/3-6 Committee of the Right of the Child [Concluding observations on the combined third to sixth periodic reports of North Macedonia](#) (20 October 2022)

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/MKD/CO/3-6 Committee of the Right of the Child [Concluding observations on the combined third to sixth periodic reports of North Macedonia](#) (20 October 2022)

#### ***Council of Europe – European Convention on Human Rights***

European Court of Human Rights, judgement of 13 December 2022 (final 13/03/2023), [CASE OF ELMAZOVA AND OTHERS v. NORTH MACEDONIA](#) ((Applications nos. 11811/20 and 13550/20)

Discrimination of Roma pupils on account of their segregation in two State-run primary schools attended predominantly by Roma children and with Roma-only classes respectively, State's failure to take desegregation measures to correct applicants' factual inequality and to avoid perpetuation of discrimination resulting from their over-representation in one of the district's school, Segregation in both schools not objectively and reasonably justified by legitimate aim; violation of Art 14 ECHR and Article 2 Additional Protocol N° 1)

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/MKD/CO/6: Committee on the Elimination of Discrimination against Women - Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia \(2018\)](#)

The Committee [...] notes the following with concern:

(a) The fact that the State party is a country of transit and destination for trafficking in women and girls for the purposes of sexual exploitation and forced labour;

[...]

(d) The absence of prosecutions and convictions of perpetrators of trafficking in persons, including in cases of forced labour.

The Committee recommends that the State party:

(b) Allocate appropriate human, technical and financial resources to implement the national strategy and the national action plan for combating trafficking in persons and illegal migration for the period 2017–2020 and evaluate the impact of its implementation;

(d) Effectively investigate and prosecute all cases of trafficking in persons, in particular women and girls and ensure that the sentences imposed on perpetrators of trafficking-related crimes are commensurate with the gravity of those crimes;

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

### *Convention on the Elimination of Discrimination against Women*

[CEDAW/C/MKD/CO/6: Committee on the Elimination of Discrimination against Women - Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia \(2018\)](#)

The Committee notes that the State party has developed reception centres for migrants and asylum seekers and has adopted measures to provide a humanitarian response to the high number of persons in transit throughout its territory. It is concerned, however, about:

[...]

(c) The limited access for migrant and refugee women to employment, education and health-care services in the State party, notwithstanding the existence of legislative provisions providing for access to health care for all migrants, irrespective of status;

(d) The restrictive provisions of the Law on Foreigners of 2018 that limit the right to family reunification and access to residence permits for non-married women and women intimate partners.

The Committee recommends that the State party:

[...]

- (c) Implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in respect of migrant, asylum-seeking and refugee women;
- (d) Strengthen measures to ensure that refugee status determination procedures and decisions on appeal are conducted in a gender-sensitive manner and remove the administrative requirements that limit access to free legal aid;
- (e) Ensure effective access to employment, health care, housing and education for migrant, asylum-seeking and refugee women and girls;
- (f) Apply legal provisions concerning family reunification to all migrant and refugee women, regardless of marital status.

## **Norway**

In general terms, it is suggested to take into account the following Concluding Observations of CESCR via the following link:

[E/C.12/NOR/CO/6: Concluding observations on the sixth periodic report of Norway \(02 April 2020\)](#)

### **Article 7 - Protection of young persons**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/NOR/CO/5-6: Committee on the Rights of the Child: [Concluding observations on the combined fifth and sixth periodic reports of Norway](#) (04 July 2018)

### **Article 8 - Maternity Protection**

#### ***Convention N° 183 - Maternity Protection***

- [Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Maternity Protection Convention, 2000 \(No. 183\)](#)

Article 2(1) of the Convention. Scope of application. Further to its previous request to indicate any specific legislative or other measures on maternity protection for women in atypical forms of dependent work, the Committee takes note of the Government's reply in its report that all employees enjoy the same maternity protection regardless of employment conditions, including employees engaged in home work, telework, and temporary work.

Article 3. Health protection. The Committee previously requested the Government to indicate whether pursuant to the Act of 2005 No. 62 on working environment, working hours and employment protection (the Working Environment Act), employers in fact have documented the impossibility of re-assignment of pregnant and breastfeeding women to other work, and if so to explain whether this is due to the size of the employer or to other specific circumstances. The Committee takes note of the Government's reply that the Government has no overview of the use of this provision, but it assumes that re-assignment of pregnant and breastfeeding women to other work will be easier in large enterprises.

Article 4(4). Compulsory post-natal maternity leave. The Committee takes note of the Government's reply to its previous comments, indicating that the provision of section 12-4 of the Working Environment Act allowing a reduction of the six weeks' compulsory leave after childbirth in case a medical certificate states that it is better for the woman to resume work, has been subject to general consultation, and there have been no objections from the social partners. The Committee considers this consultation to embody an agreement between the Government and the representative organizations of employers and workers, and that it meets the criteria set out in Article 4(4) of the Convention.

Article 9. Employment protection and non-discrimination. The Committee notes the Government's indication that a person who is subject to discriminatory treatment on the grounds of pregnancy and parental leave may claim compensation for the related economic and non-economic losses, pursuant to section 38 of the Equality and Anti-Discrimination Act, 2017. The Committee further notes that the Anti-Discrimination Tribunal examines cases relating to discrimination (section 35 of the Equality and Anti-Discrimination Act, 2017). The Committee also takes note of the Government's indication regarding an ongoing information campaign undertaken by the Equality and Anti-Discrimination Ombud on protection from discrimination against employees with children.

The Government further indicates that according to the 2020 amendments to the Equality and Anti-Discrimination Act, 2017, employers are now obliged to undertake and regularly report on active, targeted and systematic efforts to promote equality and prevent discrimination, including on the grounds of pregnancy, parental leave, and care responsibilities (section 26). The Committee, however, takes note that the United Nations Committee on Economic, Social and Cultural Rights, in its 2020 concluding observations, expressed concern about the reportedly low level of compliance of employers with the duties to take action and to report, pursuant to section 26 of the Equality and Anti-Discrimination Act, 2017 (E/C.12/NOR/CO/6, paragraph 16). The Committee requests the Government to continue to provide information on the measures taken to ensure that maternity does not constitute a source of discrimination in employment, pursuant to Article 9 of the Convention. The Committee further requests the Government to provide information on the number of cases relating to discrimination on the grounds of pregnancy and parental leave examined by the Anti-Discrimination Tribunal as well as on the compensation and damages awarded, as per section 38 of the Equality and Anti-Discrimination Act, 2017.

Similar matters were already raised in a Direct Request in [2019](#).

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/NOR/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Norway \(04 July 2018\)](#)[CRC/C/NOR/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Norway \(04 July 2018\)](#)



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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CRC/C/NOR/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Norway \(04 July 2018\)](#)[CRC/C/NOR/CO/5-6: Committee on the Rights of the Child: Concluding observations on the combined fifth and sixth periodic reports of Norway \(04 July 2018\)](#)

## ***Serbia***

### **Article 7 - Protection of young persons**

#### **[International Covenant on Economic, Social and Cultural Rights](#)**

[E/C.12/SRB/CO/3: Committee on Economic, Social and Cultural Rights - Concluding observations on the third periodic report of Serbia \(2022\)](#)

The Committee is concerned that [...] students on the dual education system and young people on internship programmes are paid less than the minimum wage and often work in substandard conditions.

The Committee urges the State party to:

(c) Take effective measures to protect students on the dual education system and young people on internship programmes such as the “My First Salary” programme from labour exploitation and to ensure that they are protected by labour regulations.

#### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

The Committee notes the observations of the Serbian Association of Employers (SAE), the Confederation of Autonomous Trade Unions of Serbia (CATUS), and the Trade Union Confederation “Nezavisnost” communicated with the Government’s report.

Article 4(1) of the Convention. Determination of hazardous work. The Committee notes with interest the adoption of the Regulation on determining hazardous work for children No. 53/2017 which sets out the hazardous types of work prohibited to children under 18 years of age. Schedule 1 of the Regulation No. 53/2017 lists the types of physical and chemical hazards exposure which is prohibited to children (such as extreme temperature, tobacco smoke, noise and radiation levels, vibrations that may damage the children’s health). Schedule 2 of the Regulation No. 53/2017 establishes the prohibited types of work performed in circumstances hazardous to children which include, among others, work underground, in confined spaces, at dangerous height or underground, work with dangerous machinery, overtime work, and road work. In addition, Schedule 3 of the Regulation No. 53/2017 lists the types of hazardous activities prohibited to children (for example, work in mining, certain activities in fishing, hunting and gambling). The Committee notes the observations of the SAE indicating the participation of social partners’ representatives in the elaboration of the Regulation No.



53/2017. The Committee further notes the statistical data provided by the Government in its report on the number of children engaged in the types of hazardous work prohibited by the Regulation No. 53/2017. The Committee requests the Government to continue to provide information on the application in practice of Regulation No. 53/2017, including the violations reported and penalties imposed.

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. Trafficking and commercial sexual exploitation of children. Further to its previous comments, the Committee notes the adoption of the National Strategy for Prevention and Suppression of Human Trafficking, Especially Women and Children 2017–22 (the National Strategy 2017–22) and its Action Plan for the period of 2017–2018 on 4 August 2017. The Committee observes that the National Strategy 2017–22 and its Action Plan set out specific activities and tasks aimed at prevention, protection and social integration of child victims of trafficking and commercial sexual exploitation. The Committee requests the Government to provide information on the implementation of the National Strategy 2017-22 and its Action Plan and any results achieved in the elimination of trafficking and commercial sexual exploitation of children under the age of 18 years.

2. National Strategy for Preventing and Protecting Children from Violence. The Committee notes the adoption of the National Strategy for Preventing and Protecting Children from Violence 2020–23 No. 80 (the National Strategy 2020–23) and its Action Plan on 3 June 2020. The National Strategy 2020–23 provides for various measures and activities to prevent and protect children from any form of violence, including labour and sexual exploitation. The Government also indicates the establishment of the Inter-Ministerial Operational Team for the Protection of Children from Violence which shall ensure better coordination of different bodies responsible for the protection of children from violence. The Committee requests the Government to provide information on the implementation of the National Strategy 2020 – 23 and its Action Plan, in particular with regard to the impact on the elimination of the worst forms of child labour.

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and direct assistance for the removal of children from these worst forms and for their rehabilitation and social integration. Child victims of trafficking. The Committee previously noted that a Centre for the Protection of Victims of Human Trafficking (the Centre) is responsible for identifying and assessing the status of the victims of human trafficking. In 2015, 24 child victims of trafficking were identified by the Centre, including 18 girls and six boys. The Centre also coordinates with competent partners to provide systematic support on health and education to child victims of trafficking. The Committee however noted the absence of specialized shelters for child victims of trafficking.

The Committee takes note of the information provided by the Government concerning a number of activities and initiatives (such as the holding of workshops and the conduct of trainings in the educational institutions) undertaken by the relevant ministries and the Centre to prevent violence and discrimination against children, including trafficking of children. The Government further indicates that the first shelter for women and girls over the age of 16 years who are victims of human trafficking was opened in 2019. The Committee notes from the data provided by the Republic Institute for Social Protection (RISP) that 74 child victims of trafficking were identified in 2017. According to the information provided in the Government's report under the Forced Labour Convention, 1930 (No. 29), during 2018, accommodation was provided to 28 children, in cooperation with centres for social work (CSWs) and NGOs.

The Committee notes that the UN Committee on the Rights of the Child (CRC) in its 2017 concluding observations expressed concern at the absence of a system for providing specialized care, support and accommodation for child victims of trafficking (CRC/C/SRB/CO/2-3, para. 62). The Committee also notes that the document “Roadmap to Eliminate Child Labour, including its Worst Forms, in the Republic of Serbia: 2018–2022” (Roadmap) provides for activities and measures aimed at the enhancement of the system of social protection services relevant for detecting and protecting children from child labour, including human trafficking (such as expanding the children’s shelter and the day care services network). The Committee encourages the Government to continue taking measures to prevent trafficking in children. It requests the Government to continue to provide information on measures taken to strengthen the capacities of the Centre and other social institutions in the rehabilitation and social integration of child victims of trafficking. The Committee also requests the Government to provide information on the number of child victims of trafficking identified, and the types of assistance and services provided by the Centre and other social service institutions.

Clauses (a) and (d). Preventing the engagement of children in the worst forms of child labour and identifying and reaching out to children at special risk. 1. Street children, especially Roma children. The Committee previously noted the Strategy for Social Inclusion of Roma 2016–25, which covers five priority areas, namely education, housing, employment, health and social protection, aimed at improving the social inclusion of Roma both at national and local level in a systematic and comprehensive way. The Committee also noted the programme of increased intensive treatment (IIT programme) carried out by the Institute for Children and Youth in Belgrade which targets children under 14 years of age with extreme psycho-physical difficulties. The Committee further noted two licensed inns for children living and working on the street.

The Committee notes the Government’s indication that 39 local self-government (LSG) units have implemented local action plans (LAPs) for social inclusion of Roma men and women under the Strategy for Social Inclusion of Roma Men and Women in Republic of Serbia 2016–25. In addition, 50 mobile teams for social inclusion of Roma men and women have been established in LSG units. The Government further indicates the new family outreach worker service and occasional foster care service targeting at the families in crisis. According to the data collected by the CSWs, in 2017, there were 393 children living and working on the street and 8 children were placed in drop-in centres for street children. In 2018, ten out of 11 children registered at the CSWs as victims of child labour were of Roma nationality.

The Committee notes that the CATUS’s observations relate to the remaining need to provide special shelters for children working on the streets and to ensure their social integration. The Committee also notes from the 2017 concluding observations of the CRC that the vast majority of persons not registered at birth declared themselves as Roma (CRC/C/SRB/CO/2-3, para. 30). The Committee requests the Government to pursue its efforts to take effective and time-bound measures to prevent and remove street children, especially Roma children, from the worst forms of child labour. The Committee also requests the Government to provide information on the rehabilitation and social integration of the street children, including the number of street children who have been provided with educational and vocational training opportunities.

2. Unaccompanied foreign children. The Committee notes from the Government’s report that according to the RIPS’s statistical data, there were 949 unaccompanied foreign children in 2017. The Committee also notes from the information provided in the Government’s report under the Forced Labour Convention, 1930 (No. 29), that services of professional guardians were used by two victims of human trafficking, an unaccompanied boy and girl.

The Committee notes from the 2017 concluding observations of the CRC that many unaccompanied children have to sleep on the streets in unsafe and unsanitary conditions due to the limited number of places in asylum centres or refugee camps (CRC/C/SRB/CO/2-3, para. 56). The CRC also expressed its concern at the absence of a proper identification procedure for unaccompanied refugee and asylum-seeking children. The Committee further notes the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Serbia of January 2017 (GRETA(2017)37, para. 71) pointing out that unaccompanied children face risks of exploitation and trafficking. GRETA further indicates the delays in the appointment of guardians to unaccompanied children from the staff of the CSWs and insufficient training of guardians due to the lack of human resources and underfunding. The Committee requests the Government to strengthen its efforts to prevent and protect unaccompanied foreign children from the worst forms of child labour. It further requests the Government to provide information on the number of unaccompanied foreign children identified and the types of assistance and services provided by social service institutions.

Application of the Convention in practice. Trafficking and commercial sexual exploitation. The Committee previously noted that from 2014 to 2015, eight cases of abduction of minors under section 134 of the Criminal Code were reported. The Committee requested the Government to provide information on the number of child victims of trafficking involved in the cases filed under section 388 of the Criminal Code, as well as on the application of section 185 regarding the use of children in pornography.

The Government indicates that under section 388 of the Criminal Code, 21 persons were under investigation which resulted in ten indictments and six prison sentences in 2018. Under section 185 of the Criminal Code, in 2018, the total number of received reports for investigation was 16 which resulted in six indictments and two prison sentences. The Committee notes an absence of information relating to the number of child victims of trafficking involved in these cases. The Committee notes the CATUS's observations pointing out that more efficient work of court authorities is needed on the application of sections 185 and 388 of the Criminal Code. The Committee requests the Government to continue to provide information on the application of sections 134, 185, and 388 of the Criminal Code in relation to children under 18 years of age, including the number of investigations, prosecutions, convictions and penalties applied.

## **Article 8 - Maternity Protection**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CEDAW/C/SRB/CO/4: Concluding observations on the fourth periodic report of Serbia \(14 March 2019\)](#)

[\*International Convention on the Elimination of Discrimination against Women\*](#)

[CEDAW/C/SRB/CO/4: Committee on the Elimination of Discrimination against Women - Concluding observations on the fourth periodic report of Serbia \(2019\)](#)

The Committee recalls its previous recommendations (CEDAW/C/SRB/ CO/2-3, para. 31) and urges the State party:

[...]

(e) To ensure access to maternity protection for all working women, including by ensuring regular payment of salary compensation during pregnancy, maternity and childcare leave and by facilitating the return to work for young mothers, in particular by maintaining adequate financial support;

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

### ***Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention***

[Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\) Migration for Employment Convention \(Revised\)](#), 1949 (No. 97)

[Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\) Migration for Employment Convention \(Revised\)](#), 1949 (No. 97)

Article 1 of the Convention. Information on national policies, laws and regulations. The Committee notes that, in its report, the Government refers to the adoption of a series of relevant legislation, namely: the Law on Foreigners (No. 24/18), the Law on Border Control (No. 24/18) and the Law on Asylum and Temporary Protection (No. 24/18). The Government also indicates that the topic of migration is also regulated by the Law on the Employment of Foreigners (No. 128/14, as amended) and the Law on Migration Management (No. 107/12). The Government adds that, in addition to the Migration Management Strategy of 2009, the Government has adopted the Strategy for Combatting Irregular Migration (2018-2020) and the Strategy on Economic Migration (2021-2027). An Action Plan is currently under development to implement the Strategy on Economic Migration. In its report under the Migrant Workers Convention (supplementary provisions), 1975 (No. 143), the Government further indicates that the institutional coordination for the implementation of the Strategy for Combatting Irregular Migration is ensured by the Working Group for Solving the Problem of Mixed Migration Flows, headed by the Interior Minister. Several technical coordination groups have also been established on specific matters, such as the Coordination Group for the Protection of the Health of Migrants, the Coordination Group for the Protection of Children and the Coordination Group for the Protection of the Mental Health of Migrants. One of the goals of the strategy is to provide support to migrants, especially when pertaining to vulnerable groups. The Commissariat for Refugees and Migration is responsible for conducting the activities towards the achievement of this goal. Furthermore, the Center for the Protection of Victims of Trafficking in Human Beings provides protection to potential victims of human trafficking. Its responsibilities include the identification of victims, coordination with other entities such as the labour inspectorate, the police, and NGOs, and direct support to the victims (including accommodation, health care, information, material support, and representation in court proceedings). The Committee takes note of this information and refers to its comments under Articles 10 and 12 of the Migrant Workers Convention (supplementary provisions), 1975 (No. 143) on the need to formulate and implement a national policy specifically designed to promote equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights, and of individual and collective freedoms for migrant workers and members of their family legally residing in the country.

Migration flows and bilateral or special agreements. The Committee takes note of the statistical information provided by the Government and disaggregated by sex on the number of foreign workers employed in Serbia, showing that : (1) in 2020, the National Employment Service (NES) issued a total of 12,931 work permits to foreign nationals; and (2) the main countries of origin of foreign workers

were China (3,515 men and 595 women), the Russian federation (1,976 men and 459 women), and Turkey (1,489 men and 71 women). The Committee also takes note of the Government's indications that in 2020, 1,196 citizens of the Republic of Serbia were employed abroad; and that the main countries of destination were the United States of America, the Russian Federation, Germany, Hungary, Czech Republic, Slovenia, Croatia, and Slovakia. The Committee requests the Government to continue to collect statistical information and to report on the situation of migrant workers in Serbia and of nationals emigrating abroad.

Articles 2 and 3. Free information services for migrant workers and misleading propaganda. The Committee notes that, once again, the Government states that the Ministry of Labour, Employment, Veterans and Social Affairs supervises the work of the NES and private employment agencies (PEAs) but does not provide specifics on the measures aimed at supervising the information provided to migrant workers (immigrating or emigrating) by the NES and PEAs nor on the sanctions imposed against misleading propaganda. It notes the Government indication that the Centre for the Protection of Victims of Trafficking in Human Beings informs migrant workers about their employment rights in Serbia and the risks of exploitation abroad and that only a few cases of labour exploitation are reported to the Center for the Protection of Victims of Trafficking in Human Beings. The Committee also refers in this regard to its comment under the Forced Labour Convention, 1930 (No. 29) regarding the need to further strengthen the capacities of the authorities responsible for enforcing the law to ensure that all persons who commit acts of trafficking in persons are investigated and prosecuted, and sufficiently effective and dissuasive penalties are imposed on them. The Committee reiterates its requests that the Government provide information: (i) on the measures adopted to monitor effectively the information services provided by the NES and the employment agencies to fight against misleading propaganda relating to emigration and immigration; and (ii) on any awareness raising activities undertaken by the Center for the Protection of Victims of Trafficking in Human Beings to ensure that victims actually report potential situations of abuses and exploitation in practices.

Article 6. Equality of treatment. The Committee notes the Government statement that the Law on the Employment of Foreigners (Nos 128/14 as amended) covers all foreign workers residing legally in the country and provides that if the conditions established by law are met, foreign citizen shall have equal rights and obligations as nationals in terms of labour, employment, self-employment, and unemployment (section 4). It notes however that, according to the Government, no cases of unequal treatment of employed foreign citizens with respect to the matters enumerated in Article 6(1)(a)-(d) were reported to nor discovered by the Labour Inspectorate. As the report is silent of this point, the Committee requests the Government to specify any exceptions under section 2(3) of the Labour Law which would authorize different treatment of migrant workers with respect to the matters enumerated in Article 6. The Committee also requests the Government: (i) to communicate on the activities of the labour inspectorate regarding the application of the principle of Article 6 in practice, such as information on the number of cases brought to the attention of or detected by the labour inspectorate on instances of unequal of treatment of migrant workers, in particular alleged violation of section 4 of the Law on the Employment of Foreigners (Nos 128/14 as amended); and (ii) to provide information on any relevant cases brought to court and on their outcome (such as information on the number of cases pending, the final findings and the penalties imposed).

Article 8. Maintenance of residence in the event of incapacity for work. As the report of the Government is once again silent of this point, the Committee reiterates its request that the Government indicate the legal provisions regulating the situation of migrant workers and their family members admitted to Serbia on a permanent basis when the migrants are unable to follow their occupation by reason of illness contracted or injury sustained subsequent to entry, and specify the measures taken to ensure that the right of residency of permanent migrants is effectively maintained in the event of incapacity for work.

The Committee raised also similar and other matters in its Direct Request of [2021](#).

## ***Slovakia***

In general terms, it is suggested to take into account the following Concluding Observations of CESCR via the following link:

[E/C.12/SVK/CO/3: Committee on Economic, Social and Cultural Rights: Concluding observations on the third periodic report of Slovakia \(14 November 2019\)](#)

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

#### ***Council of Europe – European Convention on Human Rights***

European Court of Human Rights, communicated case, 13 January 2023, no. 48587/21, [B.B. v. Slovakia](#)

#### **Subject matter of the case:**

The application concerns the alleged failure of the Slovakian authorities to conduct an effective investigation into the suspicion of the offence of human trafficking allegedly committed against the applicant. The Slovakian authorities characterised the offence and found it established as procuring (in Slovakia) prostitution (taking place in the United Kingdom).

In the applicant's submission, the Slovakian authorities disregarded evidence concerning her vulnerable status (brought up in a foster home, at the time of the offence homeless and with no means of subsistence, intellectual capacity close to light retardation) and failed properly to inform her of her rights as a victim in criminal proceedings. She also alleges that they unnecessarily made her testify repeatedly about traumatising events and put to her impertinent questions, as well as made her appear in court despite her bad health condition.

The complaints fall to be examined under Articles 4 and 8 of the Convention.

#### **Questions to the parties:**

1. In view of all the circumstances, including the course and length of the proceedings before the ordinary courts and the Constitutional Court, has there been a violation of the State's procedural obligations under Article 4 of the Convention to conduct an effective investigation of the alleged offence of human trafficking in this case (see *S.M. v. Croatia* [GC], no. 60561/14, §§ 313-318, 25 June 2020)?
2. In view of all the circumstances, including the course of the domestic proceedings, has there been a violation of the State's positive obligation under Article 8 of the Convention concerning the applicant's right to respect for her private life. In particular, have the domestic authorities succeed in striking a fair balance between the applicant's personal integrity and the rights of the defence (see *mutatis mutandis*, *Y. v. Slovenia*, no. 41107/10, §§ 103-106, ECHR 2015 (extracts))?

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

### **[International Covenant on Economic, Social and Cultural Rights](#)**

[E/C.12/SVK/CO/3: Committee on Economic, Social and Cultural Rights - Concluding observations on the third periodic report of Slovakia \(2019\)](#)

The Committee acknowledges steps taken by the State party to ensure just and favourable conditions of work, such as the increase in wages, improvements in the labour inspectorate and the programme to better combine family and work. Nevertheless, the Committee remains concerned about labour rights violations, including non-payment of wages and wage discrimination, and their disproportionate impact on migrant workers, asylum seekers and refugees, particularly those recruited through employment agencies. The Committee is concerned that there are workers that are paid less than the minimum wage, including among low-skilled and migrant workers, and women.

The Committee recommends that the State party:

- (b) Provide effective and accessible remedies to all victims of labour rights violations, ensuring compensation and guarantee of non-repetition;
- (c) Continue efforts to regulate and supervise the activities of employment agencies;
- (d) Continue to ensure the realistic calculation of and increases in the minimum wage;
- (e) Remove all disincentives to unionization and ensure full respect for all workers' rights in this regard.

## **Article 27 - Workers with Family Responsibilities**

### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/SVK/CO/7: Committee on the Elimination of Discrimination against Women - Concluding observations on the seventh periodic report of Slovakia \(2023\)](#)

The Committee [...] notes with concern:

[...]

- (b) The lack of suitable and affordable childcare facilities and flexible work arrangements and mechanisms to ensure the equal sharing of parental responsibilities, which constitute a significant barrier to women's access to employment, in particular after maternity leave;

[...]

Recalling its general recommendation No. 13 (1989) on equal remuneration for work of equal value and target 8.5 of the Sustainable Development Goals, to achieve by 2030 full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value, the Committee recommends that the State party:

[...]

- (b) Adopt measures, including the revision of labour and social security laws, to promote the equal sharing of parental responsibilities between women and men and to encourage public and

private companies to offer flexible work arrangements to parents and to increase the availability of suitable and affordable childcare facilities throughout the territory of the State party;

### ***Convention N° 156 - Workers with Family Responsibilities Convention***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Workers with Family Responsibilities Convention](#), 1981 (No. 156)

Practical application. Lack of statistical information. With regard to its previous comments, the Committee notes with regret that the Government provides no information on the progress made towards the establishment of a new central statistics system and that once again it does not provide most of the statistical information requested. The Committee once again recalls the importance of collecting and analysing sufficiently detailed statistical information in order to determine and assess the current situation of workers with family responsibilities, design appropriate responses and monitor and evaluate the impact of the measures which are being implemented. The Committee requests the Government to strengthen its efforts to collect comprehensive and sufficiently detailed data on the issues covered by the Convention, and to provide information in this regard, including on the progress made in establishing the new central statistics system. In the meantime, the Committee requests the Government to continue to provide all available information, including statistical data disaggregated by sex, any studies, surveys or reports that may enable the Committee to fully assess how the provisions of the Convention are applied in practice.

Articles 4(a) and 7 of the Convention. Measures to promote free choice of employment and integration in the labour market. In reply to the Committee's previous comment on the impact of the presence of young children on the employment rate of men and women and on the barriers to women's access to employment, the Government indicates, in its report, that the "Reconciliation of Family and Working Life" national project started in September 2019. Its main objective is to improve the conditions for reconciling work and family life and increase the employment of people with parental responsibilities, especially women, by allowing employers who create jobs for workers with family responsibilities to apply for a financial contribution for a maximum of 12 months, depending on the duration of the contract, to cover up to 95 per cent of the total labour costs, not exceeding €844 (which represents 1.2 times the minimum wage). The Government indicates that the project is expected to provide employment to approximately 1,000 women and that, by 2020, 694 unemployed persons had been hired, 690 of whom were women, and 377 were women with children below 6 years of age. With reference to its previous comment and its general observation on workers with family responsibilities, which was adopted in 2019, the Committee requests the Government to continue and intensify its efforts to overcome the persistent obstacles faced by workers with family responsibilities, more particularly by mothers with young children, in exercising their right to free choice of employment and entering or re-entering into the labour market and participating in vocational training. It requests the Government to provide information on the concrete measures taken to this end and the results achieved in this regard, and to specify the number of women and men with children below 6 years of age and with children between 6 and 10 years of age who have accessed employment or received other benefits under these measures. The Committee also asks the Government to continue to provide up-to-date information on the results achieved under the "Reconciliation of Family and Working Life" project in giving effect to the provisions of the Conventions. Noting the absence of information in this regard, the Committee once again requests the Government to provide a copy of any collective agreements containing specific provisions in favour of workers with family responsibilities.

Article 6. Educational programmes. With reference to its previous comments and in the absence of a reply from the Government on this point, the Committee once again requests the Government to



strengthen its efforts to take effective and proactive measures, such as public awareness-raising campaigns and education initiatives, to promote a more equitable sharing of family responsibilities between men and women, as well as a broader public understanding of various aspects of employment of workers with family responsibilities. It requests the Government to provide information on any survey, studies or programmes undertaken to this end, as well as specific information on the impact of such initiatives and any follow-up measures implemented.

The Committee is raising other matters in its observations [2018](#) and a [request](#) addressed directly to the Government in [2022](#) and [2018](#).

## ***Slovenia***

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

#### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/SVN/CO/7: Committee on the Elimination of Discrimination against Women - Concluding observations on the seventh periodic report of Slovenia \(2023\)](#)

The Committee [...] notes with concern the lack of gender-sensitive legal and psychosocial counselling for refugees and asylum-seekers in languages that they understand, resulting in underreporting of gender-based violence and hampering their referral to appropriate services. The Committee is further concerned that the Gender-Based Violence Multidisciplinary Working Group that provides services for refugees and asylum-seekers lacks expertise on gender issues, and that reception centres for refugees and asylum-seekers are sometimes overcrowded.

Recalling its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee recommends that the State party:

- (a) Strengthen the systematic referral of refugees and asylum-seekers with specific needs, in particular women and girls at risk of trafficking and survivors of gender-based violence, to appropriate services, including the provision of legal assistance and psychosocial counselling in languages they understand;
- (b) Provide training on gender-sensitive protocols for all actors dealing with refugees and asylum-seekers, including the Gender-Based Violence Multidisciplinary Working Group, reduce overcrowding in reception centres and demarcate segregated areas for women and men.

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

#### ***Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention***

[Direct Request \(CEACR\) - adopted 2022, published 111st ILC session \(2023\) Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#)

The Committee notes with concern that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments.

## Repetition

Article 1 of the Convention. Migration policy. In reply to the Committee's previous request to provide information on the content of the Strategy of Economic Migration (SEM) for the period 2010–20 and on its implementation, the Government explains in its report that, in the past ten years, Slovenia has joined the countries that experience a lack of manpower which is the consequence of the ageing of the active population and lack of adequate or qualified staff on their labour markets. SEM addresses these demographic challenges by a number of policies and measures, in particular by providing for an active immigration policy based on principles of equal treatment of foreign workers and protection of their socio-economic rights for work and employment. The Government states that the key results of the implementation of the SEM include the following: better information of migrant workers about their rights, obligations and work and employment options; conclusion of bilateral agreements on employment; faster recognition of foreign qualifications for doctors and dental practitioners; introduction in legislation of a single application procedure for work and residence permits; introduction of circular migration with Bosnia and Herzegovina; inclusion of measures on legal immigration within the Strategy on the Western Balkans; and adoption of a regulation determining occupations in which the employment of foreigners is not tied to the labour market. Considering the current demographic and labour market challenges described by the Government, the Committee asks the Government to provide information on the steps being taken to adopt a migration policy post 2020, the content of the migration policy and its implementation, and any results achieved in relation to the application of the Convention.

Articles 2 and 4. Provision of accurate information and assistance. Further to its previous comments concerning the funding and functioning of the INFO point for foreigners, the Committee notes that a new INFO point has been established and is funded by the Slovenia Employment Services with the aim of providing information on all relevant legal issues pertaining to work and to assist advisers of the European Employment Service (EURES) which is a cooperation network formed by public employment services set up to facilitate employment mobility among the member States and maintain a database of available jobs, provide information on workers' rights and living conditions in other European Union Member States. The Committee asks the Government to confirm that this service is provided free of charge to migrant workers and to continue to provide information on the type of information and assistance provided to migrant workers, including those from countries outside Europe, and to those wishing to emigrate.

Article 6. Equal treatment with respect to conditions of work. In its previous comments, the Committee noted the concern raised by the Association of Free Trade Unions of Slovenia (AFTUS) that allowing foreign workers with an employment permit to work only for the employer who obtained the permit increased the employers' opportunity to exploit them in respect to conditions of work. The Committee notes the Government's reply that, under the Employment, Self-employment and Work of Aliens Act, No. 47/2015 (ZZSDT), which sets out the new requirements and procedures for the issuance of the single work and residence permit, a third-country national may be employed in the country if there are no unemployed persons registered that would be suitable to fill the job vacancy, and the employer meets the requirements of actively operating, being registered for compulsory social insurance and being registered to conduct activity based on business receipts or investments. Pursuant to section 37 of the ZZSDT, during the period of the validity of the single permit, a third-country national is allowed to change jobs within the same employer, to change employers, and to take up employment with two or more employers on the basis of the written authorization of the competent authority which the Committee understands is the Employment Service. During this process, the migrant worker is not obliged to leave the country; thus he or she is no longer limited to one employer, and therefore not in a position of dependency. The Committee asks the Government

to provide information on the practical application of these provisions including the number of requests and approvals of third-party nationals to change employers.

With respect to protection of equal conditions of work, the Committee notes that the working conditions of migrants is regulated by the Employment Relationship Act (ERA) 2013, as amended, which applies equally to nationals, third-country nationals, and posted workers. The Committee also notes that according to the Government, statistics on violations of ERA are not disaggregated by third-country nationals and thus it is not possible to ascertain the number of violations of the Act pertaining to migrant workers. The Committee asks the Government to consider taking steps to disaggregate the statistics on violations of the Employment Relations Act 2013, so as to be able to monitor, ensure and report on the application of the Act to migrant workers, specifically as concerns equal protection of remuneration, hours of work, overtime arrangements, rest periods and annual leave. Please report on any steps taken in this regard.

Equal treatment with respect to accommodation. With respect to previous concerns raised by AFTUS regarding housing conditions of migrants and supervision of these conditions, the Committee notes that section 10 of the Employment, Self-employment and Work of Aliens Act No. 47/2015, provides that employers and hirers who provide accommodation to third-party nationals shall ensure compliance with the minimum housing and hygiene standards, which is the same as the requirement in the former Employment and Work of Aliens Act No. 47/2015. The Committee notes that there were 15 violations of these provisions in 2014, six in 2015, seven in 2016, and three in 2017. The Committee asks the Government to continue to provide information on the violations concerning the accommodations of migrant workers and to indicate the sanctions and remedial measures applied. Please also provide information on any other measures taken to promote better application of section 10 of the Act, including any measures to raise awareness of rights and obligations with respect to accommodations.

Equal treatment with respect to social security. The Committee refers to its previous comments concerning the issue of deregistration of foreign workers from social insurance before their contracts have ended. It notes that new procedures have been adopted through the Employment, Self-employment and Work of Aliens Act No. 47/2015, which according to the Government, strengthens protection against illegal deregistration. In this connection, the Committee notes that the Act provides that where a foreigner is deregistered from the compulsory social insurance schemes because his or her employment contract has terminated but still holds a valid single permit, the Employment Service must notify the foreigner who has 15 days to stop the possible illegal deregistration or to correct any errors. Noting that this new procedure appears to place more responsibility on the foreign worker to correct an illegal deregistration, the Committee asks the Government to provide full information on the manner in which the new procedure operates in practice to prevent, correct and sanction illegal deregistration and to ensure that foreign workers are treated no less favourably than nationals with respect to health insurance and social security.

Enforcement. The Committee notes the detailed information provided by the Government on the results of the labour inspection services concerning violations of the Employment and Work of Aliens Act, the Employment, Self-employment and Work of Aliens Act No. 47/2015, the Employment Relationship Act, 2013, and the Prevention of Undeclared Work and Employment Act, 2014. It also notes the number of violations of applicable labour laws and regulations applying to persons employed by Slovenian employers and posted in EU Member States and to persons posted in Slovenia. Further, the Committee notes that over the last few years, the number of violations of the Employment Relationship Act, 2013, concerning the rights of workers posted to other countries largely exceeds the number of violations concerning the rights of workers posted to Slovenia. Most of these violations were in relation to the failure to include all the compulsory elements in the contract of

employment for performance of work abroad. Regarding posted workers, the Committee welcomes the adoption of EU Directive No. 2018/957, pursuant to which Member States of the European Union shall apply to posted workers the terms and conditions of employment of the host country in a series of matters, that include remuneration, maximum work periods and minimum rest periods, minimum paid annual leave, minimum age, health, safety and hygiene at work, and accommodation. The Committee requests the Government to provide information on the adoption of relevant national transposition measures; and to indicate any education or guidance provided to employers and migrant workers, including posted workers to other countries, on their rights and obligations with the aim of improving compliance with the legal requirements set out in the above-mentioned laws. It also asks the Government to continue to provide information on violations of the above-mentioned Acts concerning migrant workers, disaggregated for migrant workers as for posted workers, and the sanctions imposed. Please also indicate whether courts or other tribunals have issued decisions involving questions relating to the application of the Convention, and if so, provide summaries of these decisions.

Statistics. The Committee notes the statistics provided by the Government on the work permits issued by citizenship for the reporting period. It notes that they not only show a continuing overall decrease in the number of permits issued, but that in 2016, the number of countries from where workers came greatly decreased, and in the first half of 2017 permits were issued only for foreigners from the former Socialist Federal Republic of Yugoslavia (Bosnia and Herzegovina, Croatia and Serbia). The Committee asks the Government to continue to provide statistical data on migration flows to Slovenia, including information on the type of permits granted, and the sectors in which migrants are employed, disaggregated by sex and nationality. With respect to strengthening the national system of statistics on international migration, the Committee refers the Government to the Guidelines concerning statistics of international migration (ICLS/20/2018/Guidelines) adopted by the 20th International Conference of Labour Statisticians in October 2018, for consideration and guidance.

The Committee raised similar and other concerns and matters in its Direct Request of [2021](#) and [2019](#).

## **Article 27 - Workers with Family Responsibilities**

### ***Convention N° 156 - Workers with Family Responsibilities Convention***

[-Observation \(CEACR\) - adopted 2022, published 111st ILC session \(2023\), Workers with Family Responsibilities Convention, 1981 \(No. 156\)](#)

The Committee notes with concern that the Government's report has not been received. It is therefore bound to repeat its previous comments.

#### **Repetition**

Articles 3 and 4 of the Convention. National policy, non-discrimination, leaves and benefits. Legislative developments. The Committee notes with interest the substantial amendments to the Parental Protection and Family Benefits Act in 2014, 2015, 2017 and 2018, which have the objective of transposing European legislation, including Council Directive 2010/18/EU, and of facilitating a more equal distribution of parental protection and childcare responsibilities between both parents. The Committee welcomes the various entitlements provided under the Act, including longer paternity leave, paternity leave benefit, parental leave for both parents, parental leave benefits, the possibility of reduction from full-time to part-time work, and other family and child support allowances and assistance. The Committee also notes the adoption of the Protection against Discrimination Act 2016 which prohibits discrimination on the basis of a number of specified grounds and on the basis of "any other personal circumstance", and which covers all areas of social life, including employment. It further

notes that explanatory information about the 2016 Act on the official website of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, indicates that an example of “any other personal circumstance” could be “parental or other family status”. The Committee notes the adoption on 20 June 2019 of EU Directive 2019/1158 on work–life balance for parents and carers, repealing Council Directive 2010/18/EU on parental leave. Noting the recent adoption of EU Directive 2019/1158 on work–life balance, the Committee asks the Government to provide information on: (i) the steps taken to transpose it into its national legislation; (ii) the manner in which the Parental Protection and Family Benefits Act of 2014, as amended, has been implemented in practice by both men and women taking up the various entitlements provided under the Act; (iii) the impact of this Act on any increase in the use of these measures by men; and (iv) the manner in which the Protection against Discrimination Act 2016 has been implemented to promote application of the Convention with respect to non-discrimination in employment of persons with family responsibilities, including any action taken under the office of the Advocate of the Principle of Equality.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

The Committee is raising similar and other matters in its observations of [2021](#) and [2019](#) and its requests addressed directly to the Government in [2022](#), [2021](#) and [2019](#).

## ***Spain***

In general terms, it is suggested to take into account the following Concluding Observations of CESCR via the following link:

[E/C.12/ESP/CO/6: Committee on Economic, Social and Cultural Rights: Concluding observations on the sixth periodic report of Spain \(24 April 2018\)](#)

### **Article 7 - Protection of young persons**

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/ESP/CO/5-6: [Concluding observations on the combined fifth and sixth periodic reports of Spain](#) (05 March 2018)

#### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Worst Forms of Child Labour Convention](#), 1999 (No. 182)

The Committee takes note of the supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government this year (see Article 7(2)(a) and (b) below), as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations made by the General Union of Workers (UGT) in the Government’s report, and the Government’s reply. The Committee also notes the observations of the Spanish Confederation of Employers’ Organizations (CEOE), received on 6 September 2019, and the Government’s response.

Article 7(2) of the Convention. Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these types of labour and ensuring their rehabilitation and social integration. Trafficking for sexual and labour exploitation. The Committee previously encouraged the Government to pursue its efforts to protect young persons under 18 years of age, particularly girls and migrant children, against trafficking for sexual exploitation. It also asked the Government to supply information on the number of migrant children registered in the context of the Protocol on unaccompanied foreign minors.

The Committee notes the observations of the UGT indicating that the Comprehensive Plan to Combat the Trafficking of Women and Girls for Sexual Exploitation does not take account of the situation of male victims or of other forms of labour exploitation. The UGT emphasizes that the immediate consequences are insufficient protection of boys who are victims of trafficking for sexual exploitation, and inadequate protection for women and girls who are victims of other forms of human trafficking. In this regard, the Committee notes the Government's indication that the appendix to the Framework Protocol for the protection of victims of human trafficking concerning action to detect and provide care for child victims of trafficking applies to both girls and boys.

The Committee notes the Government's indication in its report that the information on unaccompanied foreign minors (MENA) and the information on child victims of trafficking and sexual exploitation comes from two different registers. Accordingly, the information from the MENA register includes all unaccompanied migrant children identified in Spain. In April 2019, a total of 12,303 migrant children (11,367 boys and 936 girls) were registered. The data concerning trafficking victims is from the Ministry of the Interior. In 2016, the 148 registered victims included six children; in 2017, nine children were recorded among 155 victims; and in 2018, the 128 trafficking victims included six children. With regard to sexual exploitation, in 2016, three children were registered among 433 cases; in 2017, six children in 422 cases; and in 2018, two children were recorded among 391 cases.

The Committee also notes the statistics provided by the Government relating to children who are victims of trafficking for labour exploitation, begging and criminal activities. In 2016, no cases of trafficking of children for labour exploitation were recorded. In 2017 and 2018, four cases of trafficking of children for labour exploitation were recorded each year. In 2019, the Government indicates that 16 child victims of trafficking for labour exploitation were removed from this worst form of child labour. Between 2016 and 2018, the Government recorded ten cases of children involved in criminal activities and four cases of children used for begging.

The Committee takes due note of the inclusion of a specific provision on persons working with minors, in order to check that there is no previous history of sexual offences against children or trafficking offences for sexual exploitation, in the Bill for the comprehensive protection of children and young persons from violence. The Committee also notes the Government's supplementary information, according to which the Bill amends the reformed text of the Act respecting social offences and penalties (approved by Legislative Decree No. 5/2000 of 4 August) through the introduction of a new offence of employment of persons who have committed sexual crimes against children. In addition, the Government refers to several measures envisaged in the Bill, including: (i) the general obligation to report to the competent authority any situation of violence towards children or young persons; (ii) the establishment of specialized units for awareness-raising and the prevention of situations of violence against minors in the national security forces and institutions; and (iii) the preparation of specific action protocols covering trafficking in persons, and the abuse and sexual exploitation of minors living in protection centres. The Bill is being drawn up by the Ministry of Health, Consumer Affairs and Social Welfare, the Ministry of Justice and the Ministry of the Interior. It is intended to achieve Goal 16.2 of the 2030 Sustainable Development Agenda, that is to end abuse, exploitation,

trafficking and all forms of violence and torture against children. The Committee notes that in its observations the CEOE emphasizes the importance of the participation of trade unions and occupational associations in this process to ensure progress and substantive changes to the draft legislation, in view of their knowledge of the social and economic situation in Spain.

The Committee also notes the amendments to sections 177 bis (6) and 192(3) of the Penal Code prohibiting any person who has committed sexual crimes against children or the trafficking of persons for sexual exploitation from exercising an occupation or conducting a business, whether or not it is remunerated, which involves regular and direct contact with minors.

The Committee further notes that the appendix to the Framework Protocol for the protection of victims of human trafficking concerning action for the identification and provision of care for child victims of trafficking entered into force on 1 December 2017. The Committee notes the CEOE's indication that the network of Spanish enterprises is mainly composed of small and medium-sized enterprises (SMEs) and microenterprises and that it is once again calling on the Government to take the social partners into consideration in the context of the training initiatives under the Framework Protocol. The Committee notes the Government's indication that, in the context of the plans of action of the labour inspectorate, the participation of occupational associations and trade unions has been ensured through a general council, in accordance with section 11 of the regulations governing the work of the National Labour and Social Security Inspectorate (Royal Decree No. 192/2018). The Committee requests the Government to continue its efforts to protect children under 18 years of age against trafficking in persons, and to involve the social partners in the measures and action taken. The Committee also requests the Government to provide detailed information on the procedure followed and the results achieved in the context of the Protocol on unaccompanied foreign minors and the appendix to the Framework Protocol for the protection of victims of human trafficking. Finally, it requests the Government to provide information on the adoption of the Bill for the comprehensive protection of children and young persons from violence, and a copy once it has been adopted.

Clause (d). Children at special risk. Migrant children and unaccompanied minors. The Committee previously reminded the Government that migrant children are particularly exposed to the worst forms of child labour and requested the Government to intensify its efforts to protect these children from the worst forms of child labour, particularly by ensuring their integration into the school system. It also requested the Government to provide information on the measures taken and the results achieved in this respect.

The Committee notes the UGT's indications that the Council of Ministers has established a working group on migrant children in conjunction with the Office of the Public Prosecutor, the autonomous communities and non-governmental organizations (NGOs) to analyse proposals for a template for the care of unaccompanied foreign minors. However, the UGT emphasizes that the most representative trade unions in the country have not been invited to join this working group, even though they represent people working at reception centres for minors. The UGT also expresses concern at the care template, which involves public contracts or subsidies in which economic criteria take precedence over quality of service. The Committee notes the Government's indications in this regard that an Inter-territorial Coordination Council has been set up to deal with the situation of unaccompanied foreign minors by facilitating the interaction and coordination of all institutions and administrations connected with the provision of care for them. It held its first meeting in September 2018.

The Committee also notes the information on the Programme of guidance and reinforcement for progress and support in education. The total credits allocated to this programme in 2018 were over €81 million, distributed between the autonomous communities. The objective of the programme is to

establish support mechanisms to ensure the quality of education through equitable education policies aimed at reducing the drop-out rates from school and vocational training. Guidance and psycho-pedagogical teams located in the region or the school district have information on the socio-economic and family profiles of at-risk groups of pupils. Support is provided by these teams in schools with the involvement of families. The Committee requests the Government to continue its efforts to protect migrant children and unaccompanied foreign minors from the worst forms of child labour and to ensure their integration into the school system. The Committee also requests the Government to provide information on the results achieved in the context of the Programme of guidance and reinforcement for progress and support in education, and on the measures taken by the Inter-territorial Coordination Council to facilitate the provision of care for unaccompanied foreign minors.

The Committee is raising other matters in a [request](#) addressed directly to the Government, which reiterates the content of its previous [observations](#) and [direct request](#) adopted in 2019.

### ***Convention N° 77 - Medical Examination of Young Persons (Industry) Convention, 1946***

### ***Convention N° 78 - Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946***

- [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\), Medical Examination of Young Persons \(Industry\) Convention, 1946 \(No. 77\) \(Ratification: 1971\), Medical Examination of Young Persons \(Non-Industrial Occupations\) Convention, 1946 \(No. 78\) \(Ratification: 1971\)](#)

In order to provide an overview of the issues concerning the application of the main Conventions on the medical examination of young persons, the Committee considers it appropriate to examine Conventions Nos 77 and 78 in a single comment.

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), received on 20 August 2019. It also notes the observations of the General Union of Workers (UGT) contained in the Government's report, and the Government's reply to these observations.

Article 2 of Conventions Nos 77 and 78. Thorough medical examination for fitness for employment. In its previous comments, the Committee requested the Government to indicate how the evaluation of jobs and their inherent risks, provided for in section 27 of Act No. 31/1995 on the prevention of occupational risks (LPRL), ensures that minors of 16 to 18 years of age are recognized as fit for work before entering employment.

The Committee notes the observations of the CCOO that the job evaluation conducted under section 27 of the LPRL does not ensure that the minors involved are individually found to be fit for work before being admitted to employment, and that the national legislation is therefore not in conformity with Article 2 of the Conventions.

The Committee notes the Government's indications that the employer is required to conduct a job evaluation before the admission to employment of minors of 16 to 18 years of age, paying particular attention to the specific risks of the post for the safety, health and development of young persons and taking into account their lack of experience, knowledge and maturity, in accordance with section 27 of the LPRL.

The Committee also notes the Government's indications that, based on the evaluation results, the employer is required to plan preventive action and adopt any measures necessary to ensure the aptitude of the worker for the performance of their work, and to avoid or reduce the risks to which they may be exposed. These measures include: (i) the requirement to monitor workers' health in light of the risks inherent to the job (in accordance with article 22 of the LPRL). Medical supervision is



specific and regular and addresses the risks inherent to the job, and can be carried out before entering employment and may even be mandatory for the worker; (ii) the prohibition on employing workers who, by reason of their personal characteristics, may endanger themselves or others (in accordance with article 25 of the LPRL); (iii) with regard to minors of 16 to 18 years of age, the employer is required to evaluate the job before engaging such persons and to take appropriate measures to demonstrate their capacity to perform the tasks inherent to the post. These measures include health monitoring, which in turn includes, inter alia, medical examinations.

The Committee also notes the Government's statement that although no specific provision of national law exists establishing the requirement for minors of 16 to 18 years of age to undergo a medical examination for fitness for employment before admission to employment, the national legislation in Spain adopts a more comprehensive and rigorous approach to this issue. It considers safety and health monitoring of workers to be a preventive measure, and requires this monitoring to be commensurate with the risks to which the workers are likely to be exposed. Effective compliance with national legislation may include, but is not limited to, medical examinations.

The Committee notes the Government's indications that the national legislation is in conformity with European Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work. Similarly, article 96 of the Spanish Constitution provides that "validly concluded international treaties, once officially published in Spain, shall be part of national law" and section 1(5) of the Civil Code states that "legal norms contained in international treaties shall have no direct application in Spain until they have become part of the national legal system through their publication in full in the Official Gazette". Therefore, the Government emphasizes that, taking into account that ILO Convention No. 77 of 1946 was ratified on 8 April 1971 and published in the Official Gazette (BOE) on 20 May 1971, it constitutes a direct source of law because it has been incorporated in part into current Spanish statutory law.

The Committee takes due note that the National Plan for Decent Work 2018–20, approved by the Government at the Council of Ministers held on 27 July 2018, has become the main tool for empowering the labour and social security inspectorate. This plan takes into account the vulnerability of minors of 16 to 18 years of age as potential victims of abuse in the workplace.

The Committee notes the statistics provided in the labour and social security inspection reports for 2016–18. These statistics cover the protection and health of minors, indicating the number of violations detected, the number of minor workers affected and the penalties imposed. The Committee notes that the number of labour inspections decreased between 2016 and 2018 (from 279,048 to 266,718) and that the number of detected violations concerning children of 16 to 18 years of age increased in industrial occupations (from five to 16) and decreased in non-industrial occupations (from 21 to six). There were no violations detected in industrial and non-industrial occupations concerning children under 16 years of age in 2016–18. The Commission requests the Government to provide information on the number of minors from 16 to 18 years of age who are recognized as fit for employment and have undergone a thorough medical examination prior to their recruitment, specifying, in each case, the employment concerned.

Article 6. Vocational guidance and physical and vocational rehabilitation. In its previous comments, the Commission requested the Government to indicate how, under Article 6 of Conventions Nos 77 and 78, the competent authorities provide for the vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examinations to be unsuited to certain types of work, or to have physical disabilities or limitations.

The Committee notes the Government's indication that Royal Legislative Decree No. 1/2013 of 29 November, which approves the consolidated text of the General Act on the rights of persons with disabilities and their social inclusion, defines comprehensive care as a set of processes that aim to enable persons with disabilities to acquire a maximum level of personal development and autonomy, to attain and maintain maximum independence, their physical, mental and social capacities and full participation and inclusion in all aspects of life, and to obtain suitable employment. Comprehensive care programmes can include physical rehabilitation and re-education and psychological care, treatment and counselling, in addition to education and vocational support. Government administrations ensure that adequate comprehensive care services are provided by various public bodies.

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/ESP/CO/5-6: [Concluding observations on the combined fifth and sixth periodic reports of Spain](#) (05 March 2018)

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

### **[International Convention on the Rights of the Child](#)**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/ESP/CO/5-6: [Concluding observations on the combined fifth and sixth periodic reports of Spain](#) (05 March 2018)

### **[International Convention on the Elimination of Discrimination against Women](#)**

[CEDAW/C/ESP/CO/9: Committee on the Elimination of Discrimination against Women - Concluding observations on the ninth periodic report of Spain \(2023\)](#)

The Committee notes the steps taken by the State party to combat trafficking, which include the adoption of the national strategic plan against trafficking and exploitation of human beings (2021–2023) and the national strategy against organized crime and serious crime (2019–2023). The Committee is concerned, however, about:

[...]

(c) The significant number of female migrants that have been trafficked for the purpose of forced labour, particularly in the agricultural sector;

The Committee recommends that the State party:

[...]

(c) Prevent and combat trafficking of migrant women who become victims of forced labour and ensure application of the principle of non-refoulement to guarantee protection against gender-based violence against women;

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/ESP/CO/9: Committee on the Elimination of Discrimination against Women - Concluding observations on the ninth periodic report of Spain \(2023\)](#)

The Committee notes with satisfaction that the State party has adopted a progressive framework of laws and policies to achieve substantive equality between women and men, placing the Convention at its core. The Committee notes the training and awareness-raising activities for the judiciary and women concerning the Convention and the Optional Protocol. It also notes with satisfaction references made to the principle of intersectionality as a central component in the implementation of the Convention. However, it is concerned about the limited effectiveness and need for impact assessments of these laws, notably in the areas of access to abortion services, guarantees for refugee and migrant women and access to justice.

[...]

The Committee recommends that the State party:

- (a) Carry out an assessment of the impact of existing legislation designed to strengthen gender equality in the area of employment, with a view to improving the implementation thereof, including in the autonomous communities;
- (b) Maintain and enhance efforts to remove wage inequalities, in particular with regard to female seasonal workers and migrant workers, and ensure access to social security for all women, through the effective implementation of Royal Legislative Decree No. 2/2023;

The Committee notes with appreciation the recognition of rights to medically assisted reproduction and to abortion following the adoption of Organic Law No. 1/2023, amending Organic Law No. 2/2010 of 3 March 2010, on sexual and reproductive health and the voluntary interruption of pregnancy. The Committee also notes with appreciation efforts taken by the State party to combat obstetric violence, following the recommendations provided in the Committee's communication No. 154/2020. It is concerned, however, that the implementation thereof is not systematic and characterized by significant disparities between regions. The Committee is further concerned that health issues are not addressed in the workplace, in particular mental health conditions that may have arisen as a result of the coronavirus disease (COVID-19) pandemic, and that a significant number of women suffer from addictions, such as drug users.

The Committee recommends that the State party:

- (a) Increase the allocation of all necessary human, technical and financial resources to effectively implement the recommendations provided in the Committee's communication No. 154/2020;
- (b) Ensure the effective and widespread application of legislation on abortion, provided for in Organic Law No. 1/2023, through an increase in the provision of services at the local level by regional authorities, while preserving universal access to care, with particular attention to women in disadvantaged situations, especially migrant women and Roma women;

***Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention***

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\) Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), the General Union of Workers (UGT) and the Spanish Confederation of Employers' Organizations (CEOE), communicated with the Government's report. The Committee notes the corresponding responses of the Government.

Article 6(1)(a) and (b) of the Convention. Equal treatment regarding conditions of work and social security. The Committee takes due note that, in its report, the Government indicates that, under section 5(4) of Royal Decree No. 1620/2011 of 14 November establishing special labour regulations for domestic work, employers have the obligation to inform workers of essential elements of the contract and main conditions of work, where the contract lasts more than 4 weeks (including information on salary, payments in cash, duration and distribution of working hours, remuneration and compensation systems, and the regime of overnight stays where applicable). In addition, the Government also refers to section 2(2) of Royal Decree No. 1659/1998 of 24 July to apply section 8(5) of the Workers' Statute dealing with information for workers on the main elements of the employment contract, which lists the information that a labour contract should contain. Also, regarding information, the Committee takes note of CCOO's observation that the Ministry on Inclusion, Social Security and Migration's website contains no specific guidance for domestic workers, as well as of the Government's reply indicating that the general information provided is applicable to domestic workers correspondingly.

Regarding effective and accessible complaints mechanisms for domestic workers, the Government indicates that the Labour Inspection is able to access private homes within the limits of the right to inviolability of the home (and, hence, requiring the owner's consent or a judicial authorization). The Committee notes with interest the Government's indication that a specific inspection campaign on domestic work was launched in 2021, which addresses informal economy by prioritizing complaints presented and includes technical assistance and sensitization on the regularization of salaries that are below minimum salary rates (and of corresponding contributions to social security schemes). The Committee also observes that the Government indicates it has taken measures to make claim forms available in different languages. The Committee takes due note that the Government also provides data on the inspections carried out in the domestic work sector for the period 2017–20, showing that: (1) the Service on Social Security and Foreigners did 1,072, 952, 956 and 669 inspections in 2017, 2018, 2019 and 2020 respectively, all of them concerning undeclared work; (2) in 2020, 161 inspections carried out by the Service of Labour Relations and 28 inspections carried out by the Occupational Safety and Health Service were originated in workers' complaints. The Committee notes, however, that such data does not indicate to what extent such claims were presented by migrant domestic workers. The Committee further notes UGT's observations that measures foreseen to monitor the implementation of Royal Decree 1620/2011, such as an impact evaluation and the creation of a group of experts, have not been undertaken.

The Committee expects that, in applying section 2(2) of Royal Decree No. 1659/1998 and section 5(4) of Royal Decree No. 1620/2011, the Government will continue to take measures so that the relevant information is provided to migrant domestic workers in a manner and language that they understand, and take other necessary and appropriate measures to monitor the implementation of Royal Decree No. 1620/2011 as soon as possible. The Committee also asks the Government:

- (i) to provide information on the implementation of the 2021 labour inspection action campaign on domestic work and the results achieved, and
  - (ii) to continue providing statistical information on complaints filed before the Labour Inspection, courts or any other competent authority, in particular those filed by migrant domestic workers, as well as the inspections conducted and sanctions imposed.
- The Committee is raising similar and other matters in its Observations of [2018](#) and in its Direct requests of [2021](#) and [2018](#).

## **Article 27 - Workers with Family Responsibilities**

### ***International Convention on the Elimination of Discrimination against Women***

[CEDAW/C/ESP/CO/9: Committee on the Elimination of Discrimination against Women - Concluding observations on the ninth periodic report of Spain \(2023\)](#)

The Committee notes with satisfaction that the State party has adopted a progressive framework of laws and policies to achieve substantive equality between women and men, placing the Convention at its core. The Committee notes the training and awareness-raising activities for the judiciary and women concerning the Convention and the Optional Protocol. It also notes with satisfaction references made to the principle of intersectionality as a central component in the implementation of the Convention. However, it is concerned about the limited effectiveness and need for impact assessments of these laws, notably in the areas of access to abortion services, guarantees for refugee and migrant women and access to justice.

The Committee recommends that the State party:

[...]

(c) Ensure the inclusion of the principles of co-parenting and co-responsibility for both women and men in workplace policies and the equal use of related measures by both women and men, such as flexible schedules, parental leave and access to childcare services, to increase women's access to employment and decision-making positions;

### ***Convention N° 156 - Workers with Family Responsibilities Convention***

- [Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Workers with Family Responsibilities Convention](#), 1981 (No. 156)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO) and the observations of the Spanish Confederation of Employers Organizations (CEOE) transmitted with the Government's report. The Committee also notes the Government's responses.

Article 4(b) of the Convention. Conditions of employment and social security. The Committee notes that the Government reports the adoption of Royal Decree No. 3/2021 of 2 February adopting measures to reduce the gender gap and other matters in the economic and social security fields, which replaces the "maternity supplement" (considered to be discriminatory by the European Court of Justice decision of 12 December 2019) by the "contributory pension supplement to reduce the gender gap". The Government reports that the objective is to correct a pension situation that was structurally unjust in the case of women who assumed childcare responsibilities, and also to reduce the pension gender gap to less than 5 per cent. The number of children is taken as the criterion for the supplement, which is available to mothers and to fathers who can show that the assumption of childcare

responsibilities at the birth or adoption of a child negatively impacted their regular contributions. The Committee observes the CCOO's indication that there is a persistent gender gap in the social security system, partly due to the role of women as caregivers in the home and family environment, and that while work-related and social security measures for the protection of workers have contributed to narrowing the gap, more far-reaching measures should be taken to ensure effective equality at all levels of society. The Committee also notes the detailed information provided by the Government on the increased amounts of the childcare allowances for dependent children, for children with disabilities, for children in large or single-parent families, for mothers with disabilities, and for dependent adult children with disabilities, and the revision of the requirements for access to the allowances. The Committee further notes the Government's indication that the creation of a "minimum subsistence income" benefit has been approved by Royal Decree No. 20/2020 of 29 May. The Government explains that entitlement to this benefit is incompatible with entitlement to the childcare allowances provided for persons with children without disabilities or with a disability of less than 33 per cent, and that the provision of the latter benefit ceased as of June 2020, as it is now covered by the minimum subsistence benefit. The Government also refers, in respect of financial benefits for children suffering from cancer or other serious diseases, to the wider range of diseases covered by this benefit, as well as a more flexible approach to the requirement for continuous review. The Committee takes due note of all the information provided and trusts that the application of the contributory pensions supplement and the minimum subsistence income will have the desired effect in reducing the gender gap. The Committee requests the Government to provide information on any developments in this regard and on the number of persons, disaggregated by sex and family situation, who are in receipt of these benefits.

The Committee is raising other matters in a [request](#) made directly to the Government.

## *Sweden*

### **Article 8 - Maternity Protection -**

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

[CEDAW/C/SWE/CO/10: Concluding observations on the tenth periodic report of Sweden \(24 November 2021\)](#)

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

#### *[International Convention on the Rights of the Child](#)*

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/SWE/CO/6-7 – Committee of the Right of the Child [Concluding observations on the combined sixth and seventh periodic reports of Sweden](#) (7 March 2023)

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/SWE/CO/10: Committee on the Elimination of Discrimination against Women - Concluding observations on the tenth periodic report of Sweden \(2021\)](#)

The Committee [...] notes with concern that:

[...]

(c) Women with disabilities, women belonging to minority groups, and indigenous, migrant and asylum-seeking women sometimes encounter difficulties in accessing sexual and reproductive health services and information.

In line with its general recommendation No. 24 (1999) on women and health and reiterating its previous recommendations ([CEDAW/C/SWE/CO/8-9](#), para. 37), the Committee recommends that the State party:

[...]

(c) Ensure that women and girls without sufficient means, including those belonging to disadvantaged and marginalized groups, have free-of-charge access to health care, including sexual and reproductive health services.

## **Article 27 - Workers with Family Responsibilities –**

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/SWE/CO/10: Committee on the Elimination of Discrimination against Women - Concluding observations on the tenth periodic report of Sweden \(2021\)](#)

The Committee [...] notes with concern:

(c) That despite the high employment rate among women (72 per cent), women are still overrepresented in part-time positions, predominantly owing to the disproportionate burden of family responsibilities they bear;

With reference to its previous recommendations ([CEDAW/C/SWE/CO/8-9](#), para. 35), the Committee recommends that the State party:

[...]

(c) Strengthen measures to eliminate occupational segregation and enhance access by women, including migrant women, women belonging to minority groups, indigenous women and women with disabilities, to formal employment, encourage women and girls to select non-traditional career paths, and prioritize the transition of women from part-time to full-time work, including by providing a sufficient number of adequate and accessible childcare facilities;

### *Convention N° 156 - Workers with Family Responsibilities Convention*

- [Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\), Workers with Family Responsibilities Convention](#), 1981 (No. 156)

Measures addressing family responsibilities during the COVID-19 pandemic. The Committee welcomes the Government's indication, in its reports, that, due to the COVID-19 pandemic, the possibilities for parents to receive temporary parental benefits have been expanded as some parents have had to stay at home to care for their children, as a result of the closing of school or preschool facilities. In such a situation, the parents are able to receive around 90 per cent of the daily remuneration they would normally obtain from the temporary parental benefit. The ordinance was established in April 2020 and will expire at the end of January 2022. The Committee asks the Government to provide information on the number of parents who benefitted from the specific temporary parental benefits measures adopted in the context of the COVID-19 pandemic.

Article 4(b) of the Convention. Leave entitlements. In its previous comments, the Committee requested the Government to continue to provide information on social security programmes and entitlements that improve workers' ability to balance work and family responsibilities and to indicate the reason why the "gender equality bonus" was discontinued. The Government in its response states that an evaluation shown that the "gender equality bonus" did not change the distribution of parental benefits between the parents and concluded that it was an ineffective method to achieve a more equal distribution of parental benefits and parental leave. At the same time, when the "gender equality bonus" was abolished, the number of days in the parental insurance that could not be transferred to the other parent was increased from 60 days to 90 days, which has proven to be a more effective way of contributing to a more equal distribution of parental benefits between men and women. The Committee welcomes the information in the 2020 report from the Swedish Social Assurance Agency showing an increase in the number of days with parental benefits used by men from 25 per cent in 2016 to 30 per cent in 2019. It however notes that, in 2019: (1) 70 per cent of parental leave was still taken by women; (2) women claimed 61 per cent of the days corresponding to temporary parental benefit (compensation to parents who stay home from work in order to care for a sick child); and (3) women represented 72 per cent of the recipients of child allowance and 83 per cent of the recipients of child carer's allowance for children with an illness or disability. In that regard, the Committee notes that, in its 2020 country report on gender equality in Sweden, the European Commission highlighted that in 2017 an inquiry on gender equality in parenthood delivered its report (2017:101) where it noted that the labour market was still highly gender segregated, with women more often having temporary employment, taking more parental leave and working part time than men. The Committee further notes that, as highlighted in 2019 in the context of the Universal Periodic Review (UPR), conducted under the auspice of the United Nations (UN) Human Rights Council, several UN treaty bodies have expressed concern about the concentration of women in part-time work, predominantly for family reasons (A/HRC/WG.6/35/SWE/2, 12 November 2019, paragraph 43). The Committee notes the Government's indication that Statistics Sweden (SCB) has been assigned to investigate and carry out a new study of time use, among women and men with a specific focus on unpaid home and care work. The Government adds that: (1) an inquiry has been appointed to modernize and simplify the regulations regarding parental benefits; and (2) a legislative proposal was submitted for public inquiry in the beginning of 2021 to introduce a new parental benefit, a family day allowance, to be used when the child is home from school at study breaks in order to make it easier for working parents to combine work and family life. The Committee asks the Government to continue to provide information on future developments in social security programmes and entitlements implemented, in particular as a result of the above-mentioned public inquiries, to improve workers' ability to balance work and family responsibilities. It further asks the Government to provide information on the measures taken to encourage more men to make use of family-related leave with a view to achieving a more equitable distribution of family responsibilities, so that women in particular are not restricted in their possibilities of preparing for, entering, participating in or advancing in economic activity. The



Committee asks the Government to provide information on the conclusions reached by Statistics Sweden on time use for unpaid home and care work by men and women respectively, as well as statistical information, disaggregated by sex, on the extent to which men and women workers make use of family-related leave entitlements, both in the public and private sectors.

Article 5(a). Childcare facilities and services. Referring to its previous comments, the Committee takes note of the Government's statement that the reason for abolishing the childcare allowance was because there was a need to take more effective measures to help ensure that homework and care for children were distributed more equally between men and women. In that regard, the Government indicates that, in 2013, 91 per cent of those who received childcare allowance were women, plus persons born outside Sweden received childcare allowance to a greater extent than persons born in Sweden. Therefore, in the Government's view, the childcare allowance contributed to more women leaving the labour market, especially women who already had a weak connection to it. The Committee therefore asks the Government to provide information on the measures taken to assist men and women workers to reconcile work and family responsibilities, including by effectively ensuring adequate, affordable and accessible childcare services and facilities. It further asks the Government to provide information on: (i) the extent of childcare and family services available for men and women workers with family responsibilities; and (ii) the number of workers with family responsibilities making use of the existing childcare and family services and facilities.

Article 11. Cooperation with employers' and workers' organizations. The Committee previously noted that "extra parental wages" paid by the employer according to collective agreements are especially important to large groups of salaried employees, owing to the upper earning "ceiling" in the social security benefit scheme, and requested the Government to provide information on the number of men and women that have received extra parental wages. The Committee notes the Government's statement that extra parental wages provided for in collective agreements apply both to women and men but that no statistics are available in that regard. The Committee asks the Government to provide information on the type of sectors and number of employees covered by collective agreements providing for "extra parental wages", as well as extracts from collective agreements relating to "extra parental wages". It further asks the Government to provide information on the measures taken to enhance social dialogue and cooperation with the social partners in the promotion of the application of the principles of the Convention.

Enforcement. The Committee previously requested the Government to provide information on the number of cases of unfair treatment or dismissal on the ground of family responsibilities dealt with by the competent authorities. It notes the Government's indication that three judgments in relation to the prohibition of discrimination against workers with family responsibilities were handed down and that the Equality Ombudsman was a party in those cases. The Government adds that two of these cases referred to discrimination associated with parental leave and one referred to discrimination based on pregnancy. The Committee observes that the Government does not provide information on any case dealt with by the Labour Court on the principles set out in the Convention. The Committee asks the Government to continue to provide information on the number, nature and outcome of any cases on unfair treatment or dismissal on the ground of family responsibilities dealt with by the labour inspectorate, the Equality Ombudsman, the courts or any other competent authorities. It further asks the Government to provide statistical data disaggregated by sex, studies, surveys and reports which may allow the Committee to examine how the principle enshrined in the Convention is applied in practice, indicating the obstacles faced and the progress achieved with regard to equality of opportunity and treatment between men and women workers with family responsibilities and between these workers and workers without family responsibilities.

General Observation of 2019. Regarding the above issues and more generally, the Committee would like to draw the Government's attention to its general observation on workers with family responsibilities, adopted on 2019. In such observation, the Committee recalls the ILO Centenary Declaration for the Future of Work's aim to achieve gender equality at work through a transformative agenda and stresses the importance of the Convention in achieving this goal. The Committee calls for member States, and employers' and workers' organizations, to strengthen efforts towards: (i) making non-discrimination of workers with family responsibilities and the adoption of measures to facilitate the reconciliation of work and family responsibilities explicit aims of their national policy; (ii) regularly monitoring and assessing the results achieved within the framework of the national policy towards achieving the aims of the Convention with a view to adjusting the measures adopted or envisaged; (iii) launching regular public information campaigns to promote the sharing of family responsibilities and remove misconceptions around care roles; (iv) ensuring that workers with family responsibilities have effective equal opportunities and rights to enter, re-enter and remain integrated in the labour market; (v) expanding and increasing access of all workers to voluntary and protected measures of working arrangements and leave that facilitate reconciliation of work–family life; (vi) expanding measures that support the reconciliation of work and family responsibilities within social protection systems; (vii) establishing and expanding adequate quality childcare and family services at community level; (viii) promoting social dialogue, collective bargaining and other measures to strengthen, facilitate and encourage the implementation of the principles of the Convention; and (ix) enhancing the capacity of enforcement authorities, including labour inspectors, tribunals, courts, and other competent bodies, to identify, prevent and remedy cases of discrimination in employment and occupation related to family responsibilities. The Committee asks the government to provide information on any measures taken or foreseen to apply the points referred to above.

The Committee raises other matters in a [direct request](#) to Spain.

## ***Türkiye***

### **Article 7 - Protection of young persons -**

#### ***Convention N° 138 - Minimum Age Convention***

- [Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Minimum Age Convention, 1973](#) (No. 138)

The Committee takes note of the Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) communicated with the Government's report.

Article 1 of the Convention. National Policy designed to ensure the effective abolition of child labour and application of the Convention in practice. In its previous comments, the Committee noted that the Time Bound National Policy and Programme Framework for Prevention of Child Labour (2005–2015) was in the process of being updated, and therefore requested the Government to provide information in this regard, as well as to strengthen its efforts to ensure the elimination of child labour.

The Government indicates in its report that the Time Bound National Policy and Programme Framework for Prevention of Child Labour 2005-2015 was renewed in 2016 under the name "National Programme on the Elimination of Child Labour", which has been implemented since March 2017, for the period 2017–2023. The main objective of this Programme is to prevent and eliminate child labour, especially the worst forms of child labour. It includes comprehensive measures such as measures to

eradicate poverty, to improve the quality and accessibility of education, and to enhance awareness. The Government further indicates that the Monitoring and Evaluation Board for Eliminating Child Labour, which meets twice a year, is responsible for monitoring and evaluating the National Programme and its Action Plan.

The Committee notes the statement in the communication of TISK that the Action Plan associated with the National Programme on the Elimination of Child Labour 2017-2023 contains, in addition to the above measures, measures aimed at implementing and updating legislation; strengthening existing institutional structures and creating new ones; and widening the social protection and social security net. TISK also indicates that a Joint Declaration to Combat Child Labour has been signed by six ministries including the Ministry of Family, Labour and Social Services, seven social partners, and the ILO, in order to ensure that all children are protected from child labour and its worst forms, through access to education, employment of adult family members, and the extension of social protection. In addition, TISK indicates that in the framework of the National Employment Strategy Action Plans (2014–2023), it is provided, inter alia, that (i) annual plans will be developed to combat child labour; (ii) activities will be organised to raise awareness on child labour at the national and local levels, including among families; and (iii) a monitoring system on child labour will be set up to ensure coordination.

In its report formulated under the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government indicates that units for combating child labour were established in 81 provinces under the Provincial Directorates of Labour and Employment Agency.

The Government states in its supplementary information that a survey on child labour has been conducted by the Turkish Statistical Institute and was published on 31 March 2020. The Committee notes from this survey (Statistics on Child 2019 of the Turkish Statistical Institute) that 146 000 children aged 5-14 years, representing 1.1 per cent of this age group, were engaged in economic activities and that 28 per cent of these children (41 000) did not attend school. In addition, the Committee notes that 32 000 children aged 5–11 years, representing 0.4 per cent of this age group, were engaged in economic activities. Children worked in sectors including services and industry (pages 113, 114 and 116). While duly noting the Government's efforts, the Committee requests it to continue to take measures to ensure the progressive elimination of child labour in all sectors. It also requests the Government to provide information on the implementation of the National Programme on the Elimination of Child Labour 2017-2023 and its Action Plan, as well as of the National Employment Strategy Actions Plans 2014-2023. Lastly, it requests the Government to provide information on the activities of the units to combat child labour as well as the results achieved.

The Committee is raising other matters in a [request](#) addressed directly to the Government.

***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

The Committee takes note of the Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TISK) communicated with the Government's report.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. The Committee previously urged the Government to

take the necessary measures to ensure that the perpetrators of trafficking of children under 18 years of age were prosecuted, and that sufficiently effective and dissuasive penalties were applied in practice. It requested the Government to provide information on the number of prosecutions, convictions, and penalties imposed.

The Government indicates in its report that it introduced numerous administrative and legal measures to combat the trafficking of children under 18 years of age. It states that in the framework of a project to increase the organizational capacity of the women and children sections of the Gendarmerie General Command (2016-2020), training on child abuse and modern slavery were provided to the Gendarmerie staff. The Committee however observes the absence of information in the Government's report regarding the number of prosecutions, convictions and penalties imposed on perpetrators of trafficking of children.

The Committee notes the indication of the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (GRETA), in its report adopted on 10 July 2019 concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Turkey, that there are reports of refugee and migrant children, including Syrian children, sometimes unaccompanied, being trafficked or at risk of being trafficked for the purposes of sexual and labour exploitation, including begging, in the agricultural sector and in forced criminality (paragraphs 13 and 124). The Committee requests the Government to pursue its efforts to combat the trafficking of children under 18 years of age, including of migrant and refugee children, and to provide further information on the measures that have been taken in this respect. It once again requests the Government to provide information on the specific number of cases of trafficking of children identified, investigated, prosecuted and convicted, as well as the penalties imposed in this regard.

Clause (d) and Article 4(1). Hazardous work and excluded categories of work. In its previous comments, the Committee noted that the Labour Law and the Child Employment Regulation excluded from their scope of application workers in businesses with less than 50 employees in the agricultural and forestry sector, construction work related to agriculture within the framework of the family economy, and domestic service. It noted that the Occupation Health and Safety Law (OSH Law) applied to all workers, including those excluded from the Labour Act, with the exception, inter alia, of domestic workers and self-employed workers. The Government indicated that the Code of Obligations No. 6098 covered domestic service and provided for the obligation of the employers to ensure occupational health and safety at the workplace. The Committee pointed out that children working in the informal economy and the domestic and agricultural sectors constituted high-risk groups who were usually outside the normal reach of labour controls and vulnerable to hazardous working conditions. It urged the Government to ensure that all children under 18 years of age were protected from hazardous work, including those working outside a labour relationship or out of the normal reach of labour controls.

The Government indicates that children working in heavy and hazardous work in Small and Medium-Sized Enterprises were determined as one of the primary target groups of the National Programme on the Elimination of Child Labour (2017–2023) (National Programme). The Committee notes the statement in the communication of TISK that children working on the streets, as well as in agricultural work other than family work and itinerant and temporary agricultural jobs were also determined as priority target groups by the National Programme. This National Programme provides for the modification of the scope of provisions of the Labour Law and the Regulation on Working Conditions in Works Counted as Agriculture and Forestry to cover children working in seasonal agricultural works and enterprises in which the number of workers is 50 or below. The Committee notes that the National Programme also provides for the modification of the Child Employment Regulation in this regard. The National Programme has determined work on the streets, heavy and hazardous work in Small and

Medium-Sized Enterprises, and mobile and temporary agricultural work, except for family business, as worst forms of child labour in the country. The National Programme underlines that child labour in seasonal mobile and temporary agricultural labour is one of the most hazardous sectors in terms of occupational diseases and work accidents (page 21). Most children work on a seasonal basis, for four to seven months, leaving their homes to work notably in plant production work such as weeding, cleaning, harvesting, in extreme hot and humid environments. They are exposed to dangers caused by chemical substances, bug bites, back pain, hazards of machinery and equipment, long working hours, and heavy load lifting. In addition, a child's vulnerability to violence, neglect and abuse can be increased by agricultural work and seasonal agricultural migration (pages 33 and 34).

The Committee also notes, from the Government's supplementary information, that according to the Statistics on Child 2019 of the Turkish Statistical Institute, published on 31 March 2020, 720 000 children aged 5–17 years were engaged in economic activities, including 30.8 per cent in agriculture. The survey indicates that the risk of accident concerns 6.4 per cent of children engaged in economic activities. On average, 9.1 per cent of children aged 5–17 years engaged in economic activities were exposed to factors negatively affecting their physical health, such as: working in extremely hot/cold weather or in an excessively humid environment for 12.9 per cent of these children; exposure to chemicals, dust, fumes, smoke or gases for 10.8 per cent of these children; as well as working in difficult work postures or work movements and handling heavy loads for 10.1 per cent of these children (page 119). The Committee therefore once again urges the Government to ensure that all children under 18 years of age are protected from hazardous work, including in the agricultural sector, and to provide information on any progress made in this regard. It also requests the Government to provide information on any eventual modification provided for by the National Programme on the Elimination of Child Labour of the scope of the provisions of the Labour Law and related Regulations to cover children working in seasonal agricultural works and enterprises in which the number of workers is 50 or below.

Articles 5 and 7(2). Monitoring mechanisms and effective and time-bound measures. Children working in seasonal hazelnut agriculture. The Committee previously took note of a Pilot Project on the Prevention of the Worst Forms of Child Labour in Seasonal Hazelnut Agriculture until 2018, as well as a Pilot Project on "Testing United States Department of Agriculture's Application Proposals in Hazelnut Supply in Turkey", carried out in collaboration with the ILO. It further took note of the Circular "Access to education for the children of seasonal agricultural workers, migrants and semi-migrant families" of 2016, providing for concrete measures regarding the provision of education to the children of migrant workers and semi-migrant families engaged in seasonal agricultural work, in order to protect them from child labour. The Committee however noted the absence of labour inspection activities covering seasonal agricultural work, in particular the activity of hazelnut picking, between 2013 and 2016, and requested the Government to strengthen the capacity and expand the reach of the labour inspectorate in agriculture. It also requested the Government to continue its efforts to ensure that children under 18 years of age are not engaged in hazardous work in the agricultural sector, particularly in seasonal agricultural work and the nut harvest.

The Government indicates that a project entitled "Seasonal Agricultural Workers Project" (METIP) has been developed to eliminate the problems faced by seasonal agricultural workers and their families, including directing their children to education instead of work, and is being carried out successfully. In the framework of this project, a Seasonal Agricultural Information System (e-METIP) has been established within the Ministry of Family, Labour and Social Services in cooperation with the Ministries of Interior, Health and National Education, in order to monitor seasonal agricultural workers, their children, and their children's school attendance when they are of compulsory school age. As a result

of this monitoring, absenteeism has decreased significantly. The Government further indicates in its supplementary information that the children of families working in seasonal agriculture were 21,023 attending school in the academic year 2017–18, 16,247 in 2018–19, and 15,581 in 2019–20 (in the latter academic year, the COVID-19 Pandemic should be taken into account).

The Government also indicates that the project carried out in cooperation with the ILO, entitled “Integrated Model for the Elimination of the Worst Forms of Child Labour in Seasonal Agriculture in Hazelnut Harvesting in Turkey” and implemented in the provinces of Ordu, Düzce, Sakarya and Şanlıurfa, was extended until 2020. It states that training and awareness-raising activities were carried out for families, garden owners and employers, and that many children working in seasonal agriculture were withdrawn from work and directed to education.

The Committee notes the ILO’s information that, in the framework of the “Integrated Model for the Elimination of the Worst Forms of Child Labour in Seasonal Agriculture in Hazelnut Harvesting in Turkey”, 1,022 children were withdrawn or prevented from work through provision of education services during the hazelnut harvesting season of 2018. In addition, children in the seasonal agriculture were provided with on-site education, guidance, counselling and rehabilitation services within social support centres during the hazelnut harvesting seasons in 2018 and 2019 in target provinces of Ordu, Düzce and Sakarya. Taking due note of the measures taken by the Government to reduce child labour in seasonal hazelnut agriculture, the Committee requests it to continue to provide information on the activities and results of the various projects implemented to reduce child labour in seasonal hazelnut agriculture, including information on the activities and results of the social support centres. Noting the absence of information regarding the activities of the labour inspectorate in agriculture, the Committee requests the Government to take the necessary measures to enable labour inspectors to have access to the sites where seasonal agricultural work is carried out, particularly hazelnut harvesting, in order to ensure that children under 18 years of age are not engaged in hazardous work in seasonal hazelnut agriculture.

Article 7(2). Effective and time-bound measures. Clause (b). Provide the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking. The Committee previously noted that the 2016 Regulation on Combatting Human Trafficking and Protection of Victims provided for measures to protect and assist child victims of trafficking. In particular, it provided for the presence of psychologists or social workers during interviews with child victims, for the handling of these children by the relevant units of the Ministry of Family, Labour and Social Services, and for access to education services as well as a voluntary and safe return programme for these children. The Committee requested the Government to continue its efforts to provide the necessary and appropriate direct assistance to child victims of trafficking, including their rehabilitation and social integration, and to provide information on the results achieved.

The Government indicates that it closely works with civil society to assist and protect child victims of trafficking. It specifies that in 2016, 33 victims of trafficking under the age of 18 were identified, 36 in 2017 and 56 in 2018. In addition, the Government indicates in its supplementary information that between January and June 2019, 37 child victims of trafficking were identified. It states that victim identification procedures, which are provided for in the Regulation on Combating Human Trafficking and Protection of Victims, are carried out by the Provincial Directorates of Migration Management. The Government further indicates measures that it has taken to protect unaccompanied minors, such as the establishment of Child Support Centres of the Ministry of Family, Labour and Social Services, which provide support and assistance to unaccompanied children aged 13–18 years. The Government also indicates, in its supplementary information, that it has established a Department of Legal Support

and Victim Rights as one of the main units of the Ministry of Justice, which aims to support all victims of crime, including victims of trafficking, especially children, as well as to provide them with guidance and to prevent repeated victimization. In this framework, Forensic Support and Victim Services Directorates have been set up and are currently operating in 99 courthouses. The Government indicates that “forensic interview rooms” are in place in 72 courthouses, to ensure that child victims are interviewed in an appropriate environment. The Government adds that, in the framework of various projects carried out in partnership with international organisations in the field of trafficking in persons, two field studies on child trafficking are envisaged.

The Committee takes note of TISK’s statement under the Forced Labour Convention, 1930 (No. 29), according to which the Coordination Commission on Combatting Human Trafficking has been established under the Regulation on Combatting Human Trafficking and Protection of Victims, and has decided to create a working group on children. The Committee further notes the indication of the GRETA, in its above-mentioned report adopted on 10 July 2019, that according to the Turkish authorities, the working group on children met in September 2018 and decided that staff dealing with child victims should be provided with awareness-raising activities and training (paragraph 29). The GRETA also indicated that pursuant to the above-mentioned Regulation, child victims of trafficking were referred to the relevant units of the Ministry of Family, Labour and Social Services (paragraph 33). The Committee requests the Government to continue its efforts to ensure that child victims of trafficking are removed from this worst form of child labour, rehabilitated and socially integrated. The Committee also requests the Government to provide information on the concrete activities of the units of the Ministry of Family, Labour and Social Services responsible for the care of child victims of trafficking, as well as the measures that have been taken by the working group on children of the Coordination Commission on Combatting Human Trafficking. Lastly, the Committee requests the Government to provide information on the activities of the Department of Legal Support and Victim Rights and its Directorates to support child victims of trafficking, and to provide copies of any studies that have been carried out on child trafficking.

The Committee is raising other matters in a [request](#) addressed directly to the Government.

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/TUR/CO/8: Committee on the Elimination of Discrimination against Women - Concluding observations on the eighth periodic report of Türkiye \(2022\)](#)

The Committee welcomes the efforts made by the State party to prevent and combat trafficking in women and girls, including by engaging in international cooperation and awareness-raising initiatives. However, the Committee notes with concern:

(a) That the State party has not yet adopted comprehensive anti-trafficking legislation, even though it remains a source, transit and destination country for trafficking in women and girls, and that there is a lack of statistical data on the extent of trafficking and its root causes, including in humanitarian settings;

(b) That migrant, refugee and asylum-seeking women are at a high risk of becoming victims of trafficking for purposes of sexual or labour exploitation;

[...]

In the light of its general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration, and recalling its previous recommendations ([CEDAW/C/TUR/CO/7](#), para. 40), the Committee recommends that the State party:

[...]

(d) Continue combating the exploitation of women and girls in prostitution and domestic servitude and prosecuting and punishing perpetrators, address and reduce the demand for commercial sex and provide exit programmes for women wishing to leave prostitution, including alternative income-generating opportunities;

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/TUR/CO/8: Committee on the Elimination of Discrimination against Women - Concluding observations on the eighth periodic report of Türkiye \(2022\)](#)

[The Committee] is concerned that women, in particular rural women, women belonging to ethnic and national minorities, migrant, refugee and asylum-seeking women and women with disabilities, are often not aware of their rights under the Convention and the remedies available to claim them.

Recalling its previous recommendations ([CEDAW/C/TUR/CO/7](#), para. 17), the Committee recommends that the State party:

[...]

(c) Raise awareness among women of their rights under the Convention and the legal remedies available to them to claim violations of those rights and ensure that information on the Convention, the Committee's jurisprudence under the Optional Protocol and its general recommendations is accessible to all women;

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

### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/TUR/CO/8: Committee on the Elimination of Discrimination against Women - Concluding observations on the eighth periodic report of Türkiye \(2022\)](#)

The Committee notes with concern that, according to the World Economic Forum Global Gender Gap Report (2021), the State party ranks 140 among 156 countries in relation to the participation of women in the economy and equal opportunities. The Committee further notes with concern:

[...]

(b) Horizontal and vertical segregation in the labour market, especially in rural and remote areas;

[...]

In line with target 8.5 of the Sustainable Development Goals on the achievement of full and productive employment and decent work for all women and men, and recalling its previous recommendations ([CEDAW/C/TUR/CO/7](#), para. 46), the Committee recommends that the State party:



[...]

(b) Strengthen efforts to eliminate horizontal and vertical occupational segregation and enhance women's access to formal employment, encourage women and girls to select non-traditional career paths, in particular in science, technology, engineering and mathematics, information and communications technology and artificial intelligence, and prioritize the transition of women from part-time to full-time work, with the support of adequate and accessible childcare facilities;

## ***Ukraine***

In general terms, it is suggested to take into account the following Concluding Observations of CESCR via the following link:

[E/C.12/UKR/CO/7: Committee on Economic, Social and Cultural Rights: Concluding observations on the seventh periodic report of Ukraine \(02 April 2020\)](#)

### **Article 7 - Protection of young persons**

#### ***Convention N° 138 - Minimum Age Convention***

- [Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Minimum Age Convention, 1973 \(No. 138\)](#)

Article 2(1) of the Convention. 1. Scope of application and labour inspection. In its previous comments, the Committee noted that the Committee on the Rights of the Child (CRC), in its concluding observations (CRC/C/UKR/CO/3-4, para. 74), expressed concern at the high number of children below the age of 15 years working in the informal economy. In this respect, it also noted the Government's statement that the supervision of the use of child labour in the informal economy remained an outstanding issue which concerned, above all, the right of access to workplaces.

The Committee notes from the statistics provided by the Government, in its report, in response to the Committee's request for labour inspection statistics (in the formal and informal sector), that there appears to be a decrease in the activities of the labour inspection services as regards child labour, from 163 workplace visits in 2014 (with 334 minors found working), to 90 workplace visits in 2017 (with 177 minors found working). The Government adds that in 2018, 241 minors were found working during inspections. In this respect, the Committee refers to its comments adopted in 2019 under the Labour Inspection Convention, 1947 (No. 81) in which it noted that the number of labour inspectors had significantly increased since 2018, but in which it also noted with deep concern that several restrictions and limitations on labour inspections remained in force in the country. The Committee also notes from the 2019 conclusions of the European Committee of Social Rights, under the European Social Charter, that in view of the available statistics of that Committee on the number of children aged 5 to 14 years involved in child labour or hazardous work, the prohibition of employment under the age of 15 was not guaranteed in practice. The Committee requests the Government to take all necessary measures to ensure that effective labour inspections in the area of child labour are conducted in practice. It also requests the Government to continue to provide information on the activities undertaken by the labour inspection services in this respect, including the number of labour inspections carried out, the number and nature of cases detected, and any follow-up measures taken.

2. Minimum age for admission to employment or work. In its previous comments, the Committee noted that under section 188(2) of the Labour Code, children of 15 years of age are exceptionally authorized to work with the consent of their parents or guardians. In this respect, the Committee

observed that section 188(2) of the Labour Code allows young people to carry out an economic activity at an age lower than the minimum age for admission to employment or work specified by Ukraine upon ratifying the Convention, namely 16 years, and that an exception to the minimum age under the Convention is only permissible as regards light work, in line with the conditions as defined in Article 7(1) of the Convention.

The Committee notes, from the Government's indication in its report, and the website of the Parliament, that initiatives to amend the Labour Code are ongoing, but that no amendments have been made to the Labour Code so far, and that section 19(3) of the current draft Labour Code continues to contain similar provisions to the ones in section 188(2). The Committee once again expresses the firm hope that the Government will take the necessary measures, during the revision of the draft Labour Code, to ensure that no person under the age of 16 years may be admitted to employment or work in any occupation, in conformity with Article 2(1) of the Convention, except for light work as authorized under Article 7(1) of the Convention. It also once again expresses the hope that the revised draft Labour Code will be adopted in the near future.

Articles 3(3) and 6. Authorization to perform hazardous work from the age of 16 years and vocational training. The Committee previously noted that by virtue of section 2(3) of the Order of the Ministry of Health of Ukraine No. 46 of March 1994, persons under the age of 18 years pursuing vocational training may perform hazardous types of work for not more than four hours a day on condition that existing sanitary and health norms on labour protection are strictly observed, without specifying a minimum age. In this respect, the Committee observed that the legislation in force did not explicitly prohibit children between 14 (the age of admission to vocational training) and 16 years to perform hazardous work during vocational training. In this regard, it emphasized that the necessary measures should be taken to ensure that young persons below 16 years of age engaged in apprenticeship do not undertake hazardous work and that measures should be taken to raise the minimum age for admission to hazardous work to 16 years, even if the required protective conditions are adequately provided (2012 General Survey on Fundamental Conventions, paras 380 and 385).

The Committee notes that the Government's report does not contain specific information on this point, but that pursuant to section 299(4) of the draft Labour Code published on the website of the Parliament, hazardous work during vocational training shall only be permitted if children reach the age of 18 upon the end of their vocational training. The Committee once again urges the Government to take the necessary measures to ensure that children who follow vocational training programmes or apprenticeships are allowed to perform hazardous work only from the age of 16 years, in conformity with Article 3(3) of the Convention. The Committee requests the Government to provide information on any progress made in this regard.

The Committee is raising other points in a [request](#) addressed directly to the Government.

### ***Convention N° 182 - Worst Forms of Child Labour Convention, 1999 (No. 182)***

- [Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\) Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

Articles 3 and 5 of the Convention. Worst forms of child labour and monitoring mechanisms. Clause (a). Sale and trafficking of children. In its previous comments, the Committee noted that the Committee on the Rights of the Child (CRC) in its concluding observations remained concerned that Ukraine continued to be one of the largest source countries of trafficking in Europe. It also noted the Government's information on the training and capacity-building activities in 2016 for the national police on trafficking in persons, and the investigations undertaken in 2015 regarding the application of

section 149 of the Criminal Code on trafficking in persons, including six minors. The Committee requested the Government to provide specific information on the number of convictions and the penalties imposed on persons found guilty of trafficking children under 18 years of age.

The Committee notes an absence of information in the Government's report on this issue. In this respect, the Committee refers to its comments on the application of the Forced Labour Convention, 1930 (No. 29) in which it notes with concern the low number of convictions regarding trafficking in persons, despite the significant number of cases brought to justice (in 2018, there were 291 investigations, 168 cases were brought to the courts, and 15 convictions were issued, with five prison sentences). The Committee notes, from the website of the State Judicial Administration, that these convictions concerned trafficking of five children. Referring to its comments on the application of Convention No. 29, the Committee strongly urges the Government to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It also once again requests the Government to provide specific information on the number of prosecutions, convictions and specific penalties applied pursuant to section 149 of the Criminal Code on persons found guilty of trafficking children under 18 years of age.

Clause (b). Use, procuring or offering of a child for prostitution, production of pornography or for pornographic performances. In its previous comments, the Committee noted the grave concern expressed by the CRC in its concluding observations at the increase in the number of cases of sexual abuse, exploitation and involvement of children in prostitution and pornographic materials, and the alarmingly high number of internet users of child pornography (5 million users per month).

The Committee notes the Government's indication in its report in response to the Committee's request that, to strengthen the protection of children from sexual exploitation, amendments were made to the Criminal Code in 2018, including to section 302(4), which now provides for a penalty of between five and ten years for maintenance of brothels or procurement in cases involving children. The Committee also notes that the Government refers to cases concerning the investigation of sexual acts involving children, but that the Government does not provide specific information as regards the use, procuring or offering of children for prostitution, production of pornography or for pornographic performances. The Committee requests the Government to take the necessary measures to ensure the effective application of section 301 (import, manufacture, sale and dissemination of pornographic material), section 302 (maintenance of brothels and procurement) and section 303 (pimping or involvement of another in prostitution) of the Criminal Code as regards cases involving children, including the imposition of penalties constituting an effective deterrent. It once again requests the Government to provide statistical information on the number and nature of violations reported in this respect, investigations and prosecutions carried out, and convictions and criminal penalties imposed.

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comment, the Committee noted from the report of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine (A/HRC/27/75) the suspension of school education in several towns of the Donetsk region due to the armed conflict in the country, and variations in school attendance where schools had remained opened. It further noted from that report that 35 per cent of the 155,800 internally displaced persons from the Donbas region and the Crimea, had been children who needed to be enrolled in school, and that an estimated 450,000 internally displaced persons, including children had been identified from the cities of Donetsk and Luhansk. The Committee had expressed its concern at the situation of children deprived of education in the climate of insecurity prevailing in the country.

The Committee notes the Government's indication, in response to the Committee's request, that between 2016 and 2019, the number of schools in rural areas increased significantly, and that much was done to enrol a number of children with disabilities in inclusive classes. The Committee also notes the Government's reference, to Order No. 367 of 2018, which according to the Government provides for improved access of education to internally displaced children, including: (i) simplified school enrolment; (ii) distance and individual learning; (iii) the possibility to sit the final school examination without enrolment; (iv) access to a higher or professional (vocational) education institution following an independent evaluation; and (v) the possibility to obtain a secondary-education certificate in one year. In this context, the Committee also notes that the Committee on Economic, Social and Cultural Rights (CESCR) in its 2020 concluding observations remains concerned at the regional disparities in access to quality education, with remaining problems in the Donetsk and Luhansk regions. The Committee also notes that the CESCR expresses concern at the persistently high rate of illiteracy among the Roma population, the high dropout rates among Roma children in secondary education, and the under-representation of Roma children in secondary and tertiary education (E/C.12/UKR/CO/7, paragraph 44). While noting the measures already taken and the difficult situation prevailing in the country, the Committee strongly encourages the Government to continue to take measures to facilitate access to free basic education for all children, particularly children in areas of armed conflict and internally displaced children, as well as children from the Roma population. It requests the Government to provide information on the concrete results achieved in this respect.

The Committee is raising other points in a [request](#) addressed directly to the Government.

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

### ***[International Convention on the Rights of the Child](#)***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/UKR/CO/5-6 Committee of the Rights of the Child [Concluding observations on the combined fifth and sixth periodic reports of Ukraine](#) (27 October 2022)

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

### ***[International Convention on the Rights of the Child](#)***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/UKR/CO/5-6 Committee of the Rights of the Child [Concluding observations on the combined fifth and sixth periodic reports of Ukraine](#) (27 October 2022)

### ***[Council of Europe – European Convention on Human Rights](#)***

European Court of Human Rights, judgement 16 February 2021 nos. 77587/12 and 74603/12, § 158-159, [V.C.L. and A.N. v. the United Kingdom](#)

Domestic authorities' failure to take operational measures in line with international standards to protect minors prosecuted despite credible suspicion they were trafficking victims: violation of Article 4 and Article 6 ECHR.

## Article 27 - Workers with Family Responsibilities

### [International Convention on the Elimination of Discrimination against Women](#)

[CEDAW/C/UKR/CO/9: Committee on the Elimination of Discrimination against Women - Concluding observations on the ninth periodic report of Ukraine \(2022\)](#)

The Committee welcomes the abolishment of the list of more than 450 professions prohibited for women ([CEDAW/C/UKR/9](#), para. 184) and the approval of guidelines for gender audits in enterprises, institutions, and organizations (2021). The Committee nevertheless notes with concern:

(f) The persistently low number of men availing themselves of parental leave while the child is under 3 years of age ([CEDAW/C/UKR/9](#), para. 84).

With reference to its previous recommendations ([CEDAW/C/UKR/CO/8](#), para. 37), the Committee recommends that the State party:

(f) Promote the equal sharing of domestic and childcare responsibilities between women and men, including by increasing the number of adequate childcare institutions and promoting the value and use of parental leave through awareness-raising campaigns, and allocate the necessary human, technical and financial resources to fully implement the Workers with Family Responsibilities Convention, 1981 (No. 156), of the International Labour Organization;

### [International Covenant on Economic, Social and Cultural Rights](#)

[E/C.12/UKR/CO/7: Committee on Economic, Social and Cultural Rights - Concluding observations on the seventh periodic report of Ukraine Concluding observations on the seventh periodic report of Ukraine \(2020\)](#)

The Committee is concerned that women are underrepresented in public service and in the private labour market. It is also concerned at the horizontal and vertical sex segregation in the labour market and the large gender pay gap of 21.2 per cent.

The Committee recommends that the State party:

[...]

(b) Promote women's full participation in the labour market, including by developing adequate and affordable day-care solutions and encouraging men to use their right to paternity leave and paid parental leave;

### [Convention N° 156 Workers with Family Responsibilities Convention](#)

- [Direct Request \(CEACR\) - adopted 2018, published 108th ILC session \(2019\), Workers with Family Responsibilities Convention, 1981 \(No. 156\)](#)

Article 3 of the Convention. National policy. In its previous comments, the Committee requested the Government to provide detailed information on the measures taken by the competent bodies and authorities to ensure the full implementation of the Law of 2006 on Ensuring Equal Rights and Equal Opportunities for Women and Men with regard to issues concerning workers with family responsibilities. It also noted the Government's previous indication that the draft Labour Code would contain provisions prohibiting discrimination against male and female workers based on family responsibilities. The Committee notes, from the Government's report, that a new State Programme to Ensure Equal Rights and Opportunities for Women and Men for the period up to 2016 envisaged measures to create a conducive climate for workers with family responsibilities, in particular, the roll-

out of a model for reintegrating mothers and fathers into the world of work after their return from childcare leave, and that it places an emphasis on widening opportunities for workers with family responsibilities to find a successful work–life balance. The Government further indicates that a draft outline of the State Programme to Ensure Equal Rights and Opportunities for Women and Men for the period until 2021 has been produced and discussed with the relevant government authorities, and international and civil-society organizations. The Committee notes, however, that the Government’s report is silent on the results achieved by the previous State Programme of 2006–10 and the State Programme which ended in 2016. In this regard, the Committee wishes to stress that, before developing new programmes, it is essential to assess first the results and effectiveness of the previous ones, to ensure that the programmes about to be developed are informed by the difficulties and challenges encountered in the implementation of previous programmes. The Committee further takes note of the draft Labour Code provided by the Confederation of Free Trade Unions of Ukraine (KVPU) in its observations on the application by Ukraine of the Equal Remuneration Convention, 1951 (No. 100). It notes with interest that section 290 of the draft Labour Code defines workers with family responsibilities as “mother, father, adopting parent, guardian, foster parents, and in some cases, another family member”. Noting that no information was provided on the practical application of the Law of 2006 on Ensuring Equal Rights and Equal Opportunities for Women and Men, the Committee once again requests the Government to provide detailed information on the measures taken by the competent bodies and authorities to ensure the full implementation of the abovementioned Law, with regard to issues concerning men and women workers with family responsibilities. It also requests the Government to indicate if, and how, the assessment of the State Programme of 2006–10 and the one which ended in 2016 have guided the drafting of the State Programme to Ensure Equal Rights and Opportunities for Women and Men for the period until 2021. Finally, the Committee requests the Government to provide detailed information on the results achieved by the previous two programmes, in particular statistical data, if available, and on the measures taken or envisaged in the framework of the new State Programme once adopted.

Article 4. Leave entitlements and working-time arrangements for men and women workers with family responsibilities. The Committee previously noted that sections 176, 177, 179, 181, 182-2, 184, 185, and 186 of the Labour Code, concern leave entitlements and working-time arrangements for female workers and for fathers, only when they raise children without mothers. The Government indicates that, once the draft Labour Code is adopted, men and women workers with family responsibilities will enjoy equal rights and guarantees with regard to combining work and family life. Indeed, the Committee notes that sections 135, 142 and 257 of the draft Labour Code, among others, provide for working-time arrangements for workers with family responsibilities irrespective of gender. Section 201 also entitles any worker with family responsibilities to take “social leave”. However, the Committee notes that section 198 of this draft bill entitles men to take leave to care for a child under the age of 3 years only when a certificate from the mother’s place of work confirms that she has resumed work. The Committee also notes from the statistical data provided by the Government that, in 2015, childcare leave entitlement was taken by only 1.2 per cent of male workers. The Committee requests the Government to ensure that the draft Labour Code grants leave entitlements and working-time arrangements to men and women on an equal footing, and to provide a copy of the new Labour Code once it is adopted. It requests the Government to continue to provide information on the implementation in practice of leave entitlements and working-time arrangements, including statistical information, disaggregated by sex, on the number of beneficiaries of such arrangements.

Article 5. Childcare and family services and facilities. The Committee previously requested the Government to provide detailed statistical information on the availability of childcare services and facilities. The Committee notes the Government’s indication that day nurseries are available only to

mothers who are studying at university. However, the Government does not provide any information on other types of childcare facilities which might be available to workers with family responsibilities. The Committee once again requests the Government to provide detailed statistical information on the availability of childcare services and facilities that would allow the Committee to assess the progress made over time in ensuring sufficient coverage. It also requests the Government to provide information on the number and nature of services and facilities that exist to assist workers, including men, with family responsibilities regarding other dependent members of their family.

Article 6. Information and education. The Committee previously requested the Government to indicate the authorities and bodies responsible for information and education on gender equality and to provide information on the actions taken by them for the benefit of male and female workers with family responsibilities. The Committee notes the Government's statement that, in 2015, it launched various awareness-raising campaigns to overcome the predominating stereotype that women are the main caretakers in the family. The information campaign "Happiness in four hands" highlighted the importance of the father's involvement in the care of young children. The advertising campaign "Remember, it's twice as easy together!" was launched in five major cities, including in Kiev, and encouraged spouses to share family responsibilities between them. The Committee also notes from the concluding observations of March 2017 of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), that the Prime Minister has established a position of Commissioner on Equal Rights and Opportunities for Women and Men (CEDAW/C/UKR/CO/8, paragraph 22). The Committee requests the Government to pursue its efforts to promote greater awareness, public understanding and a climate conducive to overcoming existing difficulties for men and women workers with family responsibilities. It requests the Government to continue to provide information on the measures taken in this regard and in particular on the results achieved. The Committee also requests the Government to indicate whether the Commissioner on Equal Rights and Opportunities for Women and Men has been appointed, and to provide information on its mandate, indicating whether this authority is responsible for information and education on equality between men and women workers and, in particular, for workers with family responsibilities.

Article 7. Vocational guidance and training. In its previous comments, the Committee requested the Government to provide information on vocational guidance and training specifically targeting workers with family responsibilities, in order to enable them to become and remain integrated in the labour force and to re-enter the labour force after an absence due to family responsibilities. It notes that the Government's reply once again only refers to the numerous vocational guidance and training opportunities for unemployed persons without providing information specifically regarding workers with family responsibilities, such as, for example, statistical information on the number of male and female workers with family responsibilities participating in the vocational guidance and training programmes offered. Consequently, the Committee reiterates its requests that the Government indicate any measures taken or envisaged concerning vocational guidance and training, specifically targeting men and women workers with family responsibilities in order to enable them to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to family responsibilities.

Article 11. Employers' and workers' organizations. Recalling that employers' and workers' organizations have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of the Convention, the Committee requests the Government to provide information on any measures taken to seek the participation and collaboration of workers' and employers' organizations in this regard, such as their

consultation in the preparation of legislative measures, or their direct assistance in the provision, for example, of childcare facilities.

Application in practice. Noting the absence of information provided in this regard, the Committee once again requests the Government to provide information on any studies, surveys or reports that may enable it to assess how the principles of the Convention are applied in practice, as well as any related judicial decisions, and cases of infringement of the Law on Ensuring Equal Rights and Equal Opportunities for Women and Men and the Labour Code reported to, or detected by, the labour inspection services.

## ***United Kingdom***

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

#### ***International Convention on the Rights of the Child***

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/GBR/CO/6-7 – Committee of the Right of the Child [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#) (22 June 2023)

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

It is suggested to take into account the following Concluding Observations of the respective UN Committee via the following link:

CRC/C/GBR/CO/6-7 – Committee of the Right of the Child [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#) (22 June 2023)

#### ***Council of Europe – European Convention on Human Rights***

European Court of Human Rights, judgement 16 February 2021 nos. 77587/12 and 74603/12, § 158-159, [V.C.L. and A.N. v. the United Kingdom](#)

Domestic authorities' failure to take operational measures in line with international standards to protect minors prosecuted despite credible suspicion they were trafficking victims: violation of Article 4 and Article 6 ECHR.

European Court of Human Rights, Communicated case on 12 February 2021, Application [no. 8786/20](#), L.T. and others against the United Kingdom

#### **SUBJECT MATTER OF THE CASE**

The applications concern the Government's policy of providing thirty hours per week of free childcare to three-year-old and four-year-old children of working parents but only fifteen hours per week of free childcare to three-year-old and four-year-old children of non-working parents. The free childcare is generally provided in formal educational settings such as nurseries and pre-schools.

The applicants are three lone parents and their three young children. Two of the parents are full-time carers for disabled relatives and the third is a victim of domestic violence who, at the relevant time,



resided in a women's refuge. They argue that failing to provide thirty hours of free childcare in their circumstances amounted to discriminatory treatment.

#### QUESTIONS TO THE PARTIES

1. Have the applicants been treated differently from other persons in an analogous or relevantly similar situation in the enjoyment of their Convention rights due to their "other status", contrary to Article 14 of the Convention read in conjunction with Articles 8 and/or Article 2 of Protocol No. 1 to the Convention?
2. If so, was there an objective and reasonable justification for that difference in treatment, namely did it pursue a legitimate aim and was there a reasonable relationship of proportionality between the means employed and the aim sought to be realised?

In particular, what test should the Court apply in determining whether there was a reasonable relationship of proportionality between the means employed and the aim sought to be realised in the present case (see *J.D. and A v. the United Kingdom*, nos. 32949/17 and 34614/17, §§ 89 and 97, 24 October 2019)?

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

#### *International Convention on the Elimination of Discrimination against Women*

[CEDAW/C/GBR/CO/8: Committee on the Elimination of Discrimination against Women - Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland \(2019\)](#)

The Committee remains concerned about obstacles faced by women belonging to marginalized groups, such as asylum-seeking and refugee women, migrant women, Roma and Traveller women, and victims of trafficking in gaining access to healthcare services, including as a result of their inability to provide identity documentation, proof of address or immigration status.

The Committee recommends that the State party strengthen the implementation of programmes and policies aimed at providing effective access to healthcare for women belonging to marginalized groups, in particular asylum-seeking and refugee women, migrant women, Roma and Traveller women, and victims of trafficking.

#### *Convention N° 97 – Migration for Employment Convention (Revised)// Convention N° 143 Migrant Workers (Supplementary Provisions) Convention*

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\) Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#)

The Committee notes the observations of the Trade Union Congress (TUC) received on 26 October 2017.

Statistics on migration flows. In its previous comment, the Committee asked the Government to continue taking steps to collect and make available statistics on labour migration that are disaggregated by sex, and possibly other factors such as origin and age as well as sector of employment and occupation, and to indicate how these statistics reflect any changes in policies and legislation regarding the employment of migrant workers. The Committee notes the Government's reference to

the users' consultation carried out in November–December 2016 jointly by the Office for National Statistics (ONS), the Home Office, the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) on international migration statistics outputs. It notes from the summary of responses to the consultation that recurring themes across the different outputs included requests for occupation or employment breakdowns. Concerning the labour market data, there were suggestions to provide better explanation of these estimates to alleviate misreporting and that more detailed country of birth breakdowns and more information on the characteristics of international migrants in the labour market would be considered useful. The Committee welcomes the information provided and asks the Government to provide information on any follow-up given to the suggestions emanating from the consultation carried out by the Office for National Statistics, the Home Office, the Department for Work and Pensions and Her Majesty's Revenue and Customs; and on the latest statistics on labour migration disaggregated by sex and detailed as regards country of origin and age as well as sector of employment and occupation. Please also indicate how these statistics reflect any changes in policies and legislation regarding the employment of migrant workers.

Articles 2 and 7 of the Convention. Services and information to migrant workers. The Committee notes that, in reply to its previous comments on the Government's cooperation with other States regarding services and assistance provided to migrant workers, including the provision of accurate information on the migration process and rights and obligations of migrant workers, the Government indicates that it secured funding, under the European Union's Undeclared Work Platform project, for two national labour inspectors to work with the Gangmasters and Labour Abuse Authority (GLAA), in addition to a three-month secondment of a Romanian labour inspector to the GLAA to support operations in relation to exploited Romanian workers. The Government adds that it also works and exchanges information with other EU labour inspectorates. The Government also indicates that there is a lot of guidance available to migrants with regard to the processing of applications, including visas, asylum and settlement requests, as well as employment-related information. The Committee also notes the concerns of the TUC as regards the low number of advisers of the European Employment Services Network (EURES) to support EU migrant workers to find work, the lack of engagement of the Government with trade unions as regards information of migrant workers on the labour market and their rights at work, resulting in a majority of EU migrants working below their qualification level and, in some cases, exploitation. The Committee requests the Government to provide its comments in this respect. Further, the Committee asks the Government to continue to provide information on its cooperation with other States regarding services rendered to migrant workers, including information on their rights at work.

Article 3. Misleading propaganda. Stressing the importance of anti-racism and anti-xenophobic measures in order to combat misleading propaganda against both immigration and emigration, the Committee requested the Government, in its previous comment, to provide information on the measures taken to prevent and combat prejudices and stereotyping regarding immigrants in an effective manner. The Government, while recognizing that there is room for improvement, indicates that it is committed to combatting hate crimes and that its legislation contains specific offences for racially and religiously aggravated activity and offences of the stirring up of hatred on the grounds of race, religion and sexual orientation. The Committee notes the Government's statement that it funds the True Vision web-based hate crime reporting portal, which includes provisions for specific faith and migrant communities. It also supports local third-party reporting centers in migrant communities, such as the Polish Social and Cultural Association (POSK), to encourage reporting and provide support to victims. The Committee notes also the observations of the TUC reiterating its concerns that the Government's policies and rhetoric around immigration continue to encourage xenophobic sentiments that are stocking social tensions, including in the context of the EU referendum and its aftermath. According to the TUC, the Immigration Act (2016) contains provisions that are likely to increase discrimination against migrant and black and minority ethnic (BME) workers, such as the

requirement, for workers facing customers in the public service, to speak an 'adequate' level of English which is not defined objectively. The TUC condemns the sharp increase in xenophobic attacks since June 2016 and regrets that the Government did not engage with trade unions to address these issues. In this regard, the Committee wishes to refer to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), mentioning the TUC's concerns that the Immigration Act 2016 made undocumented working a criminal offence, thus classifying the wages of undocumented workers as the proceed of crime, and prohibiting undocumented workers to claim rights at work by fear of being arrested and deported. The Committee requests the Government to provide its comments in this respect as well as any information on the measures adopted, in cooperation with the social partners, to prevent and combat prejudice and stereotyping regarding migrant workers and to provide detailed information on the results obtained.

Article 6. Equality of treatment. Foreign domestic workers. In its previous comment, the Committee requested the Government to continue to monitor the effective enforcement of the legislation concerning the employment rights of foreign domestic workers, including any difficulties to effectively assert their rights before the employment tribunals and in other complaints procedures; and to provide information on the number and nature of complaints brought by foreign domestic workers regarding non-respect of rights relating to the matters set out in Article 6(1)(a)–(d) of the Convention, and their outcome. The Committee notes the Government's indication that, recognizing that migrant workers can be particularly vulnerable to labour exploitation, the Immigration Act 2016 established the position of Director of Labour Market Enforcement (LME), who was appointed on 1 January 2017, in order to make a coherent assessment of the extent of labour market exploitation, identify routes to tackle exploitation and harness the strength of the three main enforcement bodies in this field, i.e. the GLAA, the HMRC's National Minimum Wage/Living Wage team, and the Employment Agency Standards Inspectorate which monitors employment agencies. The Committee notes the information contained in the executive summary of the Labour Market Enforcement Strategy 2018/19 published in May 2018 which recognizes that the lack of awareness of employment rights and the fear of reprisal by employers inevitably act to inhibit full reporting by workers and indicates that there is an estimated 10,000 to 13,000 potential victims of modern slavery in the United Kingdom (covering sexual exploitation and domestic servitude in addition to labour exploitation). The Director of LME also indicates that the numbers might even be higher and that there was an increase in the volume of identified victims from 2017 to 2018. In its report, the Government adds that, under the Modern Slavery Act 2015, domestic workers found to be the victims of modern slavery can be granted an extension of stay and those suspected of being such victims are protected against enforcement action. From April 2016, the Government has removed the conditions which tied a worker to a specific employer, allowing them to change employer within the six month validity of their visa, a provision also extended to domestic workers employed in diplomatic households; and increased the period of leave which can be granted to an overseas domestic worker victim of slavery or trafficking from six months to two years (in addition to the discretionary leave available to all victims of human trafficking or modern slavery). While indicating that it does not monitor the nationality of Employment Tribunal claimants and cannot therefore provide information on their numbers and the nature and outcome of complaints, it underlines that migrant workers, including foreign domestic workers, are entitled to the same employment rights and redress available to all workers. The Committee also notes the TUC's observations that foreign domestic workers who have been in the country more than six months are only able to leave their employer if they have a positive result from the National Referral Mechanism (NRM) that they are the victims of trafficking. Workers whose abuse is not deemed to constitute trafficking by the NRM are forced to stay with abusive employers or lose their immigration status. The Committee asks the Government to provide detailed information on the strategy adopted by the Director of Labour Market Enforcement in order to prevent and combat migrant workers' exploitation and its results. It also asks the Government to indicate the specific conditions under which migrant

domestic workers can change employer and the difficulties encountered by the NRM to identify migrant workers victims of abusive conditions of work.

Article 6(1)(b). Equality of treatment. Social security. In its previous comment, the Committee requested the Government to provide information on the practical application of the relevant provisions of the Immigration Act 2014 and the National Health Service Act 2006, including any regulations adopted setting out which temporary migrant workers will be required to pay a health surcharge (to use secondary health services, including hospital care), the level of the surcharge and the health services to which they apply. It also requested the Government to indicate the measures taken to address discrimination against migrant workers on the basis of gender, race or ethnicity in practice with respect to access to health services. The Committee notes the Government's indication that, following the adoption of the Immigration Act of 2014, the Home Office introduced, on 6 April 2015, a requirement that most temporary, non-European Economic Area (EEA) migrants who make an application to come to the country for more than six months, or extend their stay, pay an immigration health surcharge towards the National Health Service (NHS). According to information provided on the Government's website, the surcharge is now set at £300 per year for a student or Tier 5 (Youth Mobility Scheme) visa and £400 per year for all other visa and immigration applications. The NHS (Charges to Overseas Visitors) Regulations 2015, amended in 2017, provide for exemptions for certain types of treatment as well as for certain categories of persons among which victims and suspected victims of slavery or human trafficking (including domestic workers). The Government explains that the surcharge aims to ensure that all temporary migrants make a contribution to the cost of healthcare in the country but that the amount of the surcharge is significantly below the average per capita cost to the NHS of treating temporary migrants. It adds that urgent or immediately necessary care – which includes all maternity care – will always be provided without delay even if the surcharge payment has not yet been made. It also emphasizes that guidance on how to assess if patients are eligible for an exemption (i.e. free NHS care) stresses the need to avoid any kind of discrimination. The Committee also notes the TUC's observations that the health surcharge is not justified financially and has a significant social cost. According to the TUC, its imposition constitutes a discriminatory barrier to healthcare for non-EEA citizens and impacts on those with protected characteristics under the Equality Act (2010), with compounded effect on BME groups. It expresses serious concerns that document checks required for healthcare turn health professionals into immigration officials. The Committee asks the Government to continue: (i) to provide information on the practical application of the relevant provisions regarding access to health services by migrant workers and the measures taken to evaluate their impact on such access in practice; and (ii) to indicate the specific measures taken to prevent and combat, in practice, discrimination against migrant workers on the basis of gender, race or ethnicity with respect to access to health services.

Enforcement. In its previous comment, the Committee highlighted that high fees to file discrimination claims may constitute an obstacle to the effective enforcement of the equal treatment principle embedded in the Convention and requested the Government to provide information on the measures taken to ensure that migrant workers can effectively assert their rights before the courts in practice, as well as statistics. The Committee notes the Government's indication that the Supreme Court found employment tribunals fees unlawful and quashed the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013. The Committee asks the Government to provide statistics on the nature and number of complaints regarding discrimination filed by migrant workers before the employment tribunals and the Equality and Human Rights Commission, with respect to the matters covered in Article 6(1)(a)–(d) of the Convention.

## Table of contents

<b>GENERAL OBSERVATIONS.....</b>	<b>3</b>
INTRODUCTION .....	3
REPORTING OBLIGATIONS .....	3
<b>SPECIFIC OBSERVATIONS .....</b>	<b>5</b>
GENERAL INTRODUCTION .....	5
<i>General considerations</i> .....	5
<i>The sources for the references to international law material</i> .....	6
<i>Presentation of the international case law</i> .....	8
ALBANIA .....	8
<i>Article 7 - Protection of young persons</i> .....	8
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	12
<i>Article 19 - The right of migrant workers and their families to protection and assistance</i> .....	13
ARMENIA .....	15
<i>Article 7 - Protection of young persons</i> .....	15
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	18
<i>Article 27 - The right of workers with family responsibilities to equal opportunities and equal treatment</i> ..	18
AUSTRIA .....	19
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	19
<i>Article 19 - The right of migrant workers and their families to protection and assistance</i> .....	19
AZERBAIJAN.....	20
<i>Article 7 - Protection of young persons –</i> .....	20
<i>Article 8 - The right of employed women to protection</i> .....	24
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	24
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	25
<i>Article 19 - The right of migrant workers and their families to protection and assistance</i> .....	25
BOSNIA AND HERZEGOVINA.....	25
<i>Article 7 - Protection of young persons</i> .....	25
<i>Articles 8 - Maternity Protection - and 27 - Workers with Family Responsibilities-</i> .....	29
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	29
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	29
CROATIA .....	30
<i>Article 7 - Protection of young persons</i> .....	30
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	34
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	34
<i>Article 19 – The right of migrant workers and their families to protection and assistance</i> .....	34
<i>Article 27 - Workers with Family Responsibilities</i> .....	35
CYPRUS .....	38
<i>Article 7 - Protection of young persons</i> .....	38
<i>Article 8 - Maternity Protection -</i> .....	39
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	39
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	39
<i>Article 19 – The right of migrant workers and their families to protection and assistance</i> .....	39
CZECHIA.....	42
<i>Article 7 - Protection of young persons -</i> .....	42
<i>Article 8 - Maternity Protection -</i> .....	42
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	44
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	45
GEORGIA.....	45
<i>Article 7 - Protection of young persons</i> .....	45

Article 17 - The right of children and young persons to social, legal and economic protection .....	45
Article 19 - The right of migrant workers and their families to protection and assistance .....	45
GERMANY .....	46
Article 16 - The right of the family to social, legal and economic protection .....	46
Article 17 - The right of children and young persons to social, legal and economic protection .....	46
Article 19 - The right of migrant workers and their families to protection and assistance .....	48
Article 27 - The right of workers with family responsibilities to equal opportunities and equal treatment - .....	50
HUNGARY .....	50
Article 7 - protection of young persons .....	50
Article 16 - The right of the family to social, legal and economic protection .....	51
Article 17 - The right of children and young persons to social, legal and economic protection .....	52
LATVIA.....	52
Article 8 - Maternity Protection –.....	52
Article 19 – The right of migrant workers and their families to protection and assistance.....	55
LITHUANIA .....	55
Article 8 - Maternity Protection .....	55
Article 27 - Workers with Family Responsibilities .....	56
LUXEMBOURG.....	60
Article 8 - Maternity Protection .....	60
Article 16 - The right of the family to social, legal and economic protection .....	60
Article 17 - The right of children and young persons to social, legal and economic protection .....	60
Article 27 - The right of workers with family responsibilities to equal opportunities and equal treatment.	61
REPUBLIC OF MOLDOVA.....	61
Article 7 - Protection of young persons .....	61
Article 8 - Maternity Protection .....	65
Article 17 – The right of children and young persons to social, legal and economic protection .....	67
Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment	69
MONTENEGRO.....	69
Article 8 - Maternity Protection .....	69
Article 16 - The right of the family to social, legal and economic protection.....	72
Article 17 - The right of children and young persons to social, legal and economic protection .....	72
NETHERLANDS .....	72
Article 7 ESC - Protection of young persons.....	72
Article 8 - Maternity Protection .....	72
Article 16 - The right of the family to social, legal and economic protection .....	73
Article 17 - The right of children and young persons to social, legal and economic protection .....	73
Articles 19 – The right of migrant workers and their families to protection and assistance .....	73
NETHERLANDS ARUBA .....	77
Article 17 - The right of children and young persons to social, legal and economic protection .....	77
NORTH MACEDONIA .....	79
Article 7 - Protection of young persons .....	79
Article 8 - Maternity Protection .....	82
Article 16 - The right of the family to social, legal and economic protection .....	83
Article 17 - The right of children and young persons to social, legal and economic protection .....	83
Article 19 – The right of migrant workers and their families to protection and assistance.....	84
NORWAY.....	85
Article 7 - Protection of young persons .....	85
Article 8 - Maternity Protection .....	85
Article 16 - The right of the family to social, legal and economic protection .....	86
Article 17 - The right of children and young persons to social, legal and economic protection .....	87
SERBIA .....	87
Article 7 - Protection of young persons .....	87

<i>Article 8 - Maternity Protection</i> .....	90
<i>Article 19 - The right of migrant workers and their families to protection and assistance</i> .....	91
SLOVAKIA .....	93
<i>Article 17 – The right of children and young persons to social, legal and economic protection</i> .....	93
<i>Article 19 - The right of migrant workers and their families to protection and assistance</i> .....	94
<i>Article 27 - Workers with Family Responsibilities</i> .....	94
SLOVENIA .....	96
<i>Article 17 – The right of children and young persons to social, legal and economic protection</i> .....	96
<i>Article 19 - The right of migrant workers and their families to protection and assistance</i> .....	96
<i>Article 27 - Workers with Family Responsibilities</i> .....	99
SPAIN .....	100
<i>Article 7 - Protection of young persons</i> .....	100
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	105
<i>Article 17 – The right of children and young persons to social, legal and economic protection</i> .....	105
<i>Article 19 – The right of migrant workers and their families to protection and assistance</i> .....	106
<i>Article 27 - Workers with Family Responsibilities</i> .....	108
SWEDEN .....	109
<i>Article 8 - Maternity Protection -</i> .....	109
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	109
<i>Article 19 – The right of migrant workers and their families to protection and assistance</i> .....	110
<i>Article 27 - Workers with Family Responsibilities –</i> .....	110
TÜRKIYE .....	113
<i>Article 7 - Protection of young persons -</i> .....	113
<i>Article 17 – The right of children and young persons to social, legal and economic protection</i> .....	118
<i>Article 19 – The right of migrant workers and their families to protection and assistance</i> .....	119
<i>Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment</i> .....	119
UKRAINE .....	120
<i>Article 7 - Protection of young persons</i> .....	120
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	123
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	123
<i>Article 27 - Workers with Family Responsibilities</i> .....	124
UNITED KINGDOM .....	127
<i>Article 16 - The right of the family to social, legal and economic protection</i> .....	127
<i>Article 17 - The right of children and young persons to social, legal and economic protection</i> .....	127
<i>Article 19 – The right of migrant workers and their families to protection and assistance</i> .....	128
<b>TABLE OF CONTENTS</b> .....	<b>132</b>