



March 2022

EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

ANDORRA

Ce texte peut subir des retouches de forme.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter, statements of interpretation, and general questions from the Committee, is contained in the General Introduction to all Conclusions.

The following chapter concerns Andorra, which ratified the Revised European Social Charter on 12 November 2004. The deadline for submitting the 14th report was 31 December 2020 and Andorra submitted it on 18 May 2021.

The Committee recalls that Andorra was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to all findings of non-conformity or deferral in its previous conclusions (Conclusions 2017).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions 2017) found the situation to be in conformity, there was no examination of the situation in 2020.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerned the following provisions of the thematic group II "Health, social security and social protection":

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

Andorra has accepted all provisions from the above-mentioned group.

The reference period was from 1 January 2016 to 31 December 2019.

The conclusions relating to Andorra concern 16 situations and are as follows:

– 5 conclusions of conformity: Articles 11§2, 12§2, 14§1, 14§2 and 23.

– 4 conclusions of non-conformity: Articles 3§2, 12§1, 12§4 and 13§1.

In respect of the other 7 situations related to Articles 3§1, 3§3, 11§1, 11§3, 12§3, 13§4 and 30, the Committee needs further information in order to examine the situation.

The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Andorra under the Revised Charter.

The next report from Andorra will deal with the following provisions of the thematic group III "Labour Rights":

- the right to just conditions of work (Article 2);
- the right to a fair remuneration (Article 4);
- the right to organise (Article 5);
- the right to bargain collectively (Article 6);
- the right to information and consultation (Article 21);
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22);

- the right to dignity at work (Article 26);
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28);
- the right to information and consultation in collective redundancy procedures (Article 29).

The deadline for submitting that report was 31 December 2021.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Safety and health regulations

The Committee notes that the report of Andorra does not provide any information concerning this provision of the Charter.

The Committee notes that for the purposes of this report, States were asked to reply to the specific targeted questions put to them in relation to Article 3§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity or deferrals (see appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the remit of the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee found that, pending receipt of the requested information, the situation in Andorra was in conformity with Article 3§1 of the Charter (Conclusions 2017). The assessment of the Committee will therefore only concern the information provided by the Government in response to the targeted questions.

The Committee wishes to point out that it will take note of the reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e., after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle.

General objective of the policy

In its targeted question, the Committee asked about policy formulation processes and practical arrangements made to identify new or emerging situations that represent a challenge to the right to safe and healthy working conditions, the results of such processes, as well as intended future developments.

The Committee notes that Andorra did not provide any information regarding Article 3§1. Therefore, the Committee reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Andorra is in conformity with Article 3§1.

Covid-19

In its targeted question, the Committee asked about the protection of frontline workers, instructions and training, the quantity and the adequacy of personal protective equipment provided to workers, and the effectiveness of these measures within the context of the Covid-19 pandemic.

The report does not contain any response to the targeted question related to Covid-19.

In line with its Statement on Covid-19 and social rights (March 2021), the Committee recalls that in the context of the Covid-19 crisis, and with a view to mitigating the adverse impact of the crisis and accelerating the post-pandemic social and economic recovery, each State Party must assess whether its existing legal and policy frameworks are adequate to ensure a Charter-compliant response to the challenges presented by Covid-19. Where those frameworks are not adequate, the State must amend them including through the adoption of any additional measures that are required to ensure that the State is able to comply with its Charter obligations in the face of the social rights risks posed by the Covid-19 crisis. In the same vein, the Committee recalls that the Covid-19 crisis does not obviate the requirements set out by its long-standing jurisprudence regarding the implementation of the Charter and the obligation of the States Parties to take measures that allow them to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.

The Committee points out that, in order to secure the rights set out in Article 3, a response to Covid-19 in terms of national law and practice should involve the immediate introduction of health and safety measures at the workplace such as adequate physical distancing, the use of personal protective equipment, strengthened hygiene and disinfection measures, as well as stricter medical supervision, where appropriate. In this respect, due account should be taken of the fact that certain categories of workers, such as frontline health care workers, social workers, teachers, transport and delivery workers, garbage collection workers, and agro-food processing workers are exposed to heightened risks. States Parties must ensure that their national policies on occupational safety and health, and their health and safety regulations, reflect and address the hazardous agents and the particular psychosocial risks faced by different groups of workers in the Covid-19 context. The Committee also stresses that the situation requires a thorough review of occupational risk prevention, at national policy level, as well as at company level, in close consultation with the social partners as stipulated by Article 3§1 of the Charter. The national legal framework may require amendment, and risk assessments at company level must be adapted to the new circumstances.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Safety and health regulations

The Committee notes that the report of Andorra does not provide any information concerning this provision of the Charter.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

In its previous conclusion, the Committee concluded that the situation in Andorra was not in conformity with Article 3§2 of the Charter on the grounds that the health and safety legislation and regulations did not specifically cover a majority of the risks, the levels of protection against asbestos and ionising radiation were insufficient and self-employed workers were not adequately protected (Conclusions 2017).

Content of the regulations on health and safety at work

In its previous conclusion, the Committee found the situation in Andorra not to be in conformity with the Charter because the health and safety legislation and regulations did not specifically cover a majority of the risks (Conclusions 2017).

The Committee notes that the report does not provide any information on this point. Therefore, the Committee reiterates its previous conclusion of non-conformity.

The Committee asks for detailed information on the regulatory responses adopted to improve occupational safety and health in connection with known and also evolving or new situations (including as regards stress and harassment at work; work-related substance use and employer responsibility; strictly limiting and regulating electronic monitoring of workers; mandatory digital disconnection from the work environment during rest periods – also referred to as “digital detox”; health and safety in the digital and platform economy; etc.) and about regulatory responses to newly recognised forms of professional injury or illness (such as work-related self-harm or suicide; burn-out; alcohol or other substance use disorders; post-traumatic stress disorders (PTSD); injury and disability in the sports entertainment industry, including in cases when such injury and disability can take years or even decades to become apparent, for example in cases of difficult to detect damage to the brain; etc.).

The Covid-19 pandemic has changed the way many people work, and many workers now telework or work remotely. Teleworking or remote working may lead to excessive working hours.

The Committee considers that, consistent with States Parties’ obligations in terms of Article 3§2, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to enable fully the right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the “right to disconnect”).

States Parties should ensure there is a legal right not to be penalised or discriminated against for refusing to undertake work outside normal working hours. States must also ensure that there is a legal right to protection from victimisation for complaining when an employer expressly or implicitly requires work to be carried out outside working hours. States Parties must ensure that employers have a duty to put in place arrangements to limit or discourage unaccounted for out-of-hours work, especially for categories of workers who may

feel pressed to overperform (e.g. those during probationary periods or for those on temporary or precarious contracts).

Being connected outside normal working hours also increases the risk of electronic monitoring of workers during such periods, which is facilitated by technical devices and software. This can further blur the boundaries between work and private life and may have implications for the physical and mental health of workers.

Therefore, the Committee considers that States Parties must take measures to limit and regulate the electronic monitoring of workers.

Protection against hazardous substances and agents

In its previous conclusion, the Committee requested clarifications on the enforceability before the courts of ILO Conventions Nos. 162 on asbestos (1986) and 115 on ionising radiation (1960); Recommendations Nos. 172 on asbestos (1986) and 114 on protection against radiation (1960); the ICRP Recommendation (1990) and Directive 96/29/Euratom; and the international material safety datasheet, and on the application in practice of these texts by employers. The Committee considered that if the next report did not contain this information, there would be nothing to show whether the situation in Andorra is in conformity with the Charter (Conclusions 2017).

The report does not contain any information requested on this point. Therefore, the Committee considers that the situation in Andorra is not in conformity with Article 3§2 of the Charter on this point on the ground that it has not been established that the ILO Conventions Nos. 162 on asbestos (1986) and 115 on ionising radiation (1960); Recommendations Nos. 172 on asbestos (1986) and 114 on protection against radiation (1960); the ICRP Recommendation (1990) and Directive 96/29/Euratom are enforceable before the courts and applied in practice by employers.

In its previous conclusion, the Committee found the situation in Andorra not to be in conformity with the Charter because the levels of protection against asbestos and ionising radiation were insufficient (Conclusions 2017).

The report does not provide any information on this point. Therefore, the Committee reiterates its previous conclusion of non-conformity.

Personal scope of the regulations

In its previous conclusion, the Committee found the situation in Andorra not to be in conformity with the Charter because self-employed workers were not adequately protected (Conclusions 2017).

The report does not provide any information on this point. Therefore, the Committee reiterates its previous conclusion of non-conformity.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 3§2 of the Charter on the ground that:

- the health and safety legislation and regulations do not specifically cover a majority of the risks;
- it has not been established that the ILO Conventions Nos. 162 on asbestos (1986) and 115 on ionising radiation (1960); Recommendations Nos. 172 on asbestos (1986) and 114 on protection against radiation (1960); the ICRP Recommendation (1990) and Directive 96/29/Euratom are enforceable before the courts and applied in practice by employers;
- the levels of protection against asbestos and ionising radiation are insufficient;
- self-employed workers are not adequately protected.

Article 3 - Right to safe and healthy working conditions

Paragraph 3 - Enforcement of safety and health regulations

The Committee notes that the report of Andorra does not provide any information concerning this provision of the Charter.

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions for Article 3§3 of the Charter as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee found that the situation in Andorra was in conformity with Article 3§3 of the Charter (Conclusions 2017).

Accidents at work and occupational diseases

The Committee previously examined (Conclusions 2017) the situation regarding accidents at work and occupational diseases, and observing that the incidence rates regarding accidents at work and fatal accidents have continued to fall overall, concluded that the situation in Andorra was in conformity with the Charter.

In its targeted question under Article 3§3 with regard to accidents at work and occupational diseases, the Committee asked for information on statistical data on prevalence of work-related death, injury and disability including as regards suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders, as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs (e.g. cycle delivery services, including those employed or whose work is managed through digital platform; performers in the sports entertainment industry, including in particular contact sports; jobs involving particular forms of interaction with clients and expected to use potentially harmful substances such as alcohol or other psychoactive products; new forms of high-yield high-stress trading; military and law enforcement; etc.) and also as regards the victims of harassment at work and poor management.

In the absence of a reply to the targeted questions, the Committee reiterates its request for information in this respect and defers its conclusions. It considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Andorra is in conformity with Article 3§3.

Activities of the Labour Inspectorate

The Committee previously examined the situation regarding activities of the Labour Inspectorate and observing that the number of inspections and sanctions imposed has increased significantly during the reference period, concluded that the situation in Andorra was in conformity with the Charter (Conclusions 2017).

The targeted questions with regard to activities of the Labour Inspectorate concerned the organisation of the Labour Inspectorate, and the trends in resources allocated to labour inspection services, including human resources; number of health and safety inspection visits by the Labour Inspectorate and the proportion of workers and companies covered by the inspections as well as the number of breaches to health and safety regulations and the nature and type of sanctions; whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors.

In the absence of a reply to the targeted questions, the Committee reiterates its request for information in this respect and defers its conclusions. It considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Andorra is in conformity with Article 3§3.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

The Committee notes that no targeted questions were asked under Article 3§4 of the Charter. As the previous conclusion found the situation in Andorra to be in conformity with the Charter, there was no examination of the situation in 2021.

Article 11 - Right to protection of health

Paragraph 1 - Removal of the causes of ill-health

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 11§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee concluded that the situation in Andorra was in conformity with Article 11§1 of the Charter, pending receipt of the information requested (Conclusions 2017). The assessment of the Committee will therefore only concern the information provided by the Government in response to the targeted questions.

The Committee wishes to point out that it will take note of the reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle.

Measures to ensure the highest possible standard of health

In a targeted question, the Committee asked for overall and disaggregated statistical data on life expectancy across the country and different population groups (urban; rural; distinct ethnic groups and minorities; longer term homeless or unemployed; etc.) identifying anomalous situation (e.g. particular areas in the community; specific professions or jobs; proximity to active or decommissioned industrial or highly contaminated sites or mines; etc.) and on prevalence of particular diseases among relevant groups (e.g. cancer) or blood borne infectious diseases (e.g. new cases HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison; etc.).

The report indicates that currently Andorra does not hold statistical data on life expectancy, the prevalence of cancer or other chronic diseases. This situation is expected to change in 2022 concerning life expectancy (through the annual statistical programme 2021). Moreover, works have already started in order to have a register containing statistical data on the prevalence of cancer. The Committee asks for updated information on statistical data in the next report.

The report provides information with regard to new cases of HIV and Hepatitis C. It indicates that over the last years, HIV was transmitted mostly through sexual contacts and there were no new cases transmitted by way of substance use or among prisoners. For example, in 2019, 6 new cases of HIV were notified. It is also reported that there are no new cases of Hepatitis C, the last case detected was in 2018, and transmitted through sexual contact.

Access to healthcare

In a targeted question, the Committee asked information about sexual and reproductive healthcare services for women and girls (including access to abortion) and statistical information about early (underage or minor) motherhood, as well as child and maternal mortality.

The report provides information on the available programmes aimed primarily at sexual and reproductive health such as: the youth counselling programme whose main objective is sexual and reproductive education; the maternal and child health programme aimed at assisting and supporting women in all phases of motherhood (pregnancy and postnatal etc)

and the integrated service of assistance to women (SIAD) which was created in March 2020 (outside the reference period).

The report provides statistical data on early motherhood as well as on infant mortality and perinatal mortality. No data are provided on maternal mortality. The Committee reiterates its request for information on maternal mortality.

The report indicates that in Andorra there are 7 gynaecologists who address the needs of all women, including their sexual and reproductive health. Women can freely choose their gynaecologist.

The report does not provide information on access to abortion. The Committee notes that according to the report “European Abortion Law: A Comparative Overview” of the Center for Reproductive Rights Andorra does not allow abortion at all.

The Committee further notes from the Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW) that the CEDAW recommended that Andorra legalise the termination of pregnancy at least in cases of risk to the life of the pregnant woman, rape, incest and severe foetal impairment, and decriminalise abortion in all other cases. The CEDAW expressed concern about the fact that women and girls are compelled to travel outside Andorra to obtain an abortion in countries where it is legally available on wider grounds; and that women and girls without the means to travel outside the State party to obtain an abortion, such as poor and/or migrant women and girls, may be compelled to carry their pregnancies to full term or to undertake unsafe abortions, which may lead to severe mental pain and suffering. The CEDAW also expressed concern about the limited access to modern contraceptives, including the barriers that adolescent girls may face in acquiring access to information and reproductive health services, including contraception; and that healthcare providers and pregnancy counsellors cannot freely provide information on abortion for fear of being prosecuted for violating article 108 of the Criminal Code (CEDAW, Concluding observations on the fourth period report of Andorra, CEDAW/C/AND/CO/4, 13 November 2019).

The Committee asks for the Government’s comments on this matter in the next report. It reserves its position on this point.

The Committee asks for information on the measures taken to ensure that women and girls have access to modern contraception. It also asks for information on the proportion of the cost of contraceptives that is not covered by the State (in cases where the cost is not fully reimbursed by the State).

The Committee asks that the next report contain information on the public health expenditure as a share of GDP.

The Committee refers to its general question as regards the right to protection of health of transgender persons in the general introduction. The Committee recalls that respect for physical and psychological integrity is an integral part of the right to the protection of health guaranteed by Article 11. Article 11 imposes a range of positive and negative obligations, including the obligation of the state to refrain from interfering directly or indirectly with the enjoyment of the right to health. Any kind of unnecessary medical treatment can be considered as contrary to Article 11, if accessing another right is contingent upon undergoing that treatment (Transgender Europe and ILGA Europe v. Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018, §§74, 79, 80).

The Committee recalls that state recognition of a person’s gender identity is itself a right recognised by international human rights law, including in the jurisprudence of the European Court of Human Rights, and is important to guaranteeing the full enjoyment of all human rights. It also recalls that any medical treatment without free informed consent (subject to strict exceptions) cannot be compatible with physical integrity or with the right to protection of health. Guaranteeing free consent is fundamental to the enjoyment of the right to health, and

is integral to autonomy and human dignity and the obligation to protect the right to health (Transgender Europe and ILGA Europe v. Czech Republic, op. cit., §§78 and 82).

The Committee invites states to provide information on the access of transgender persons to gender reassignment treatment (both in terms of availability and accessibility). It asks whether legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilisation or any other medical requirements which could impair their health or physical and psychological integrity. The Committee also invites states to provide information on measures taken to ensure that access to healthcare in general, including sexual and reproductive healthcare, is provided without discrimination on the basis of gender identity.

In a targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). The report indicates that Article 9 of Law No. 20/2017 on the rights and duties of healthcare users and professionals and on medical records of 27 October 2017 provides that any action relating to a patient's health requires his/her free, specific, informed and unequivocal consent. As a general rule, the consent must be verbal. However, it must be given in writing in the case of surgical operations, diagnostic procedures or invasive therapies which pose serious risks or clear and predictable disadvantages that may have negative consequences on the patient's health. The patient may withdraw his/her consent at any time, even after the treatment has begun. In that case, they must be given prior information on the possible consequences of ending the treatment.

The report indicates that Law No. 20/2017 also provides for exceptions to the informed consent requirement, in the following instances:

- when there is a risk to public health (if health reasons require it, in accordance with the law), and
- in a situation where there is a serious and immediate risk to the patient's physical or psychological integrity and it is impossible to determine his/her will due to his/her inability to make decisions, because he/she has not given prior instructions or there is no access to a designated representative or to persons closely associated with the patient.

Covid-19

In the context of the Covid-19 crisis, the Committee asked the States Parties to evaluate the adequacy of measures taken to limit the spread of virus in the population as well as the measures taken to treat the ill (under Article 11§3).

For the purposes of Article 11§1, the Committee considers information focused on measures taken to treat the ill (sufficient number of hospital beds, including intensive care units and equipment, and rapid deployment of sufficient numbers of medical personnel).

With regard to treating those who are ill, the report indicates that the health system has been adapted and specialised resources have been mobilised to deal with the health crisis. The report adds that the flexibility of the system was possible due to a good communication and a coordination of the health professionals concerned. A Contingency Plan was set up which regroups the different assistance facilities.

The Committee recalls that during a pandemic, States Parties must take all necessary measures to treat those who fall ill, including ensuring the availability of a sufficient number of hospital beds, intensive care units and equipment. All possible measures must be taken to ensure that an adequate number of healthcare professionals are deployed (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

The Committee recalls that access to healthcare must be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone, and States must ensure that groups at particularly high risk, such as homeless

persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status are adequately protected by the healthcare measures put in place. Moreover, States must take specific, targeted measures to ensure enjoyment of the right to protection of health of those whose work (whether formal or informal) places them at particular risk of infection (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

During a pandemic, States must take all possible measures as referred to above in the shortest possible time, with the maximum use of financial, technical and human resources, and by all appropriate means both national and international in character, including international assistance and cooperation (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 11 - Right to protection of health
Paragraph 2 - Advisory and educational facilities

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter with respect to the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

In its previous conclusion, the Committee found that the situation in Andorra was in conformity with Article 11§2 of the Charter, pending receipt of the information requested (Conclusions 2017).

Education and awareness raising

In its targeted questions, the Committee asked for information about health education (including sexual and reproductive health education) and related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in the community, on a lifelong or ongoing basis, and in schools.

The report indicates that measures are taken to encourage citizens to adopt a healthy lifestyle, to increase their physical activities and improve their eating habits. In addition, the Comprehensive Support Service for Women is in charge of dealing with all queries relating to sexual and reproductive health. The report also states that a project entitled “APTITUDE” (POCTEFA) is being developed to prevent the elderly from losing their autonomy. The project aims to alleviate the frailty of people over 65, by delaying their dependence and/or institutionalisation through various means, mainly relating to physical exercise and eating habits.

The Committee requests that detailed information be provided in the next report on education with respect to health and on related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in the community, on a lifelong or ongoing basis.

Regarding health education in schools, the report presents the education programme which encompasses topics such as sexual and reproductive education, nutrition, healthy eating and eating disorders, preventing the consumption of tobacco, alcohol and drugs, reinforcing accident prevention, etc. In its previous conclusions, the Committee already noted that health education is provided throughout schooling and is part of the school curricula (Conclusions 2017).

In its targeted questions, the Committee also asked for information about awareness-raising and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. In response, the report indicates that seminars have been held on these topics over the last ten years in education centres throughout the country. Seminars on harassment and equality dealing with, among others, the SOGI issue, have also been held over the last two years. In addition, the gender equality awareness plan was drawn up and approved by the Ministry of Social Affairs, Housing and Youth and the Ministry of Education and Higher Education. The plan and its guidelines for co-operation in the case of gender-based and domestic violence contain recommendations for professionals working in schools. The Committee takes note of the awareness-raising campaigns presented in the report.

Counselling and screening

In its previous conclusion, the Committee found that the situation in Andorra was in conformity with Article 11§2 with respect to counselling and screening services available to pregnant women and children (Conclusions 2017). However, it reiterates its request for updated information on the HPV vaccination programme for girls.

Conclusion

The Committee concludes that the situation in Andorra is in conformity with Article 11§2 of the Charter.

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

Therefore, it will focus on the Government’s replies to the targeted questions, namely about healthcare services in prison; community-based mental health services; drug abuse prevention and harm reduction; healthy environment; immunisation and epidemiological monitoring; Covid-19; and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (namely, after 31 December 2019). In other words, the information referred to in the Covid-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

In its previous conclusion, the Committee concluded that the situation in Andorra was in conformity with Article 11§3 of the Charter, pending receipt of information on accidents (Conclusions 2017).

Healthcare services in places of detention

In a targeted question, the Committee asked for a general overview of healthcare services in places of detention, in particular prisons (under whose responsibility they operate/which ministry they report to, staffing levels and other resources, practical arrangements, medical screening on arrival, access to specialist care, prevention of communicable diseases, mental health-care provision, conditions of care in community-based establishments when necessary, etc.).

The report details the staffing arrangements at the La Comella Penitentiary Centre, the only such establishment in the country, including nurses, a general practitioner, a psychiatrist and a clinical psychologist. The report also notes that inmates have access to specialist treatment in community-based facilities.

Community-based mental health services

In a targeted question, the Committee asked for information regarding the availability and extent of community-based mental health services and on the transition to community-based mental health from former large-scale institutions. The Committee also asked for statistical information on outreach measures in connection with the mental health assessment of vulnerable populations and on proactive measures adopted to ensure that persons in need of mental healthcare are not neglected.

The report notes that mobile teams actively seek to identify vulnerable individuals in the community and provide support as and where needed, a task that is facilitated by the relatively small size of the population.

Drug abuse prevention and harm reduction

In a targeted question, the Committee asked for information about drug-related deaths and transmission of infectious diseases among people who use or inject psychoactive

substances both in the community and in custodial settings. The Committee also asked for an overview of the national policy designed to respond to substance use and related disorders (dissuasion, education, and public health-based harm reduction approaches, including use or availability of WHO listed essential medicines for opioid agonist treatment) while ensuring that the “available, accessible, acceptable and sufficient quality” criteria (WHO’s 3AQ) are respected, subject always to the exigency of informed consent. This rules out, on the one hand, consent by constraint (such as in the case of acceptance of detox and other mandatory treatment in lieu of deprivation of liberty as punishment) and, on the other hand, consent based on insufficient, inaccurate or misleading information (i.e. not based on state of the art scientific evidence).

The report notes that there has been one drug-related death in Andorra during the period 2016-2018. The report also describes the prevention, harm reduction and treatment arrangements in place.

Healthy environment

In a targeted question, the Committee asked for information on the measures taken to prevent exposure to air, water or other forms of environmental pollution, including proximity to active or decommissioned (but not properly isolated or decontaminated) industrial sites with contaminant or toxic emissions, leakages or outflows, including slow releases or transfers to the neighbouring environment, nuclear sites, mines, as well as on the measures taken to address the health problems of the populations affected, and to inform the public, including pupils and students, about general and local environmental problems.

The report presents the measures taken with a view to monitoring the quality of the water used for domestic and leisure purposes, sanitary waste, and to ensuring public access to information on the environment.

The Committee notes that the report does not address all issues raised in the targeted question, namely with regard to the measures taken to prevent exposure to air, water or other forms of environmental pollution, including proximity to active or decommissioned (but not properly isolated or decontaminated) industrial sites with contaminant or toxic emissions, leakages or outflows, including slow releases or transfers to the neighbouring environment, nuclear sites, mines, as well as on the measures taken to address the health problems of the populations affected. Therefore, the Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Andorra is in conformity with Article 11§3 of the Charter.

Immunisation and epidemiological monitoring

In a targeted question, the Committee asked States Parties to describe the measures taken to ensure that vaccine research is promoted, adequately funded and efficiently coordinated across public and private actors.

The report notes that Andorra lacks any pharmaceutical companies.

Accidents

In its previous conclusion, the Committee asked for information on the measures taken to prevent accidents, and updated figures on the number of accidents and fatality rates (Conclusions 2017).

The Committee recalls that States Parties must take steps to prevent accidents. The main accidents covered are road accidents, domestic accidents, accidents at school, accidents during leisure time, including those caused by animals (Conclusions 2005, Moldova).

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its request and considers that if the requested information is not

provided in the next report, there will be nothing to establish that the situation in Andorra is in conformity with Article 11§3 of the Charter.

Covid-19

In a targeted question, the Committee asked States Parties to evaluate the adequacy of measures taken to limit the spread of the Covid-19 virus in the population (testing and tracing, physical distancing and self-isolation, provision of surgical masks, disinfectant, etc.).

The report details the preventive measures taken in Andorra, including by greatly increasing testing capacity, conducting mass testing drives, focusing testing on groups that were vulnerable or susceptible to spread the virus, such as people living in residential institutions or children of school age, tracing and isolation, ensuring access to information, acquiring and distributing personal protection equipment.

The Committee recalls that States Parties must take measures to prevent and limit the spread of the virus, including testing and tracing, physical distancing and self-isolation, the provision of adequate masks and disinfectant, as well as the imposition of quarantine and 'lockdown' arrangements. All such measures must be designed and implemented having regard to the current state of scientific knowledge and in accordance with relevant human rights standards (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020). Furthermore, access to healthcare must be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone, and that groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status must be adequately protected by the healthcare measures put in place (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

The Committee takes note of the information contained in the report submitted by Andorra.

Risks covered, financing of benefits and personal coverage

In its previous conclusion (Conclusions 2017), the Committee noted that the coverage of healthcare was 83.9% of the population and asked what categories of persons were excluded from the coverage. It notes in this respect that persons, who are lawfully resident in Andorra but do not have a permit for lucrative activity are excluded from the coverage and are required to be in a possession of an insurance coverage other than the general system. The Committee notes that in 2018 the healthcare coverage stood at 92%.

In its previous conclusion the Committee asked for the updated information regarding the coverage of income-replacement benefits. It notes from the report that as regards old-age, the total coverage of the population stood at 56,7% in 2018 and as regards total active population it stood at 96.5%. As regards sickness and occupational diseases, the coverage stood at 98.4% of active population. For disability 83% of active population was covered and 98% in respect of maternity.

Adequacy of benefits

In its previous conclusion (Conclusions 2017), the Committee used the Social Cohesion Economic Threshold (LECS) as reference threshold for determining the minimum subsistence level. The Committee noted that the LECS is equivalent to 60% of average incomes per consumer unit, which is roughly the same as the Eurostat at-risk-of-poverty threshold defined as 60% of median equivalised income. In assessing the adequacy of the benefits, the Committee therefore took into account the thresholds corresponding respectively to 50% and 40% of average incomes, calculated on the basis of LECS. The Committee considered that the minimum levels of sickness, occupational injury and occupational disease benefits were inadequate. The Committee notes that the report does not provide updated information on the level of LECS.

In its previous conclusion the Committee asked the next report to provide up-to-date information concerning the national poverty threshold, the minimum wage, the monthly median equivalised net income and the minimum level of income-replacement benefits (sickness, occupational injuries and diseases, old-age pension and invalidity) and the level of family benefits. The Committee notes that the report does not provide this information. In the absence of the requested information, the Committee reiterates its previous findings of non-conformity.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 12§1 of the Charter on the grounds that the minimum levels of sickness, occupational injury and occupational diseases benefits are inadequate.

Article 12 - Right to social security

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee recalls that Article 12§2 obliges States to maintain a social security system at a level at least equal to that necessary for ratifying the European Code of Social Security. The Code requires the acceptance of at least six of Parts II to X (on the understanding that Part II, Medical care, counts as two parts and Part V, Old-age benefit, counts as three parts).

The Committee notes that Andorra has not ratified the European Code of Social Security. Therefore, the Committee cannot take into consideration the Committee of Ministers' resolutions on the application of the Code by States which are bound by it, and must make its own assessment.

The Committee also notes that Andorra is not a member of the International Labour Organisation (ILO) and has not ratified ILO Convention No. 102 on social security (minimum standards).

The Committee recalls that to assess whether a social security system is maintained at a level at least equal to that which is necessary for ratifying the European Code of Social Security, it assesses the information relating to the branches covered (risks covered), to the personal scope and to the level of the benefits paid.

In this respect, the Committee refers to its assessment that the Andorran social security system covers an adequate number of branches (Conclusion 2017 on Article 12§1). It also found that the personal scope is in conformity with Article 12§1 (Conclusion 2021 on Article 12§1).

Concerning the level of benefits, the Committee held that the minimum amounts of sickness and work accidents/occupational diseases benefits are not adequate (Conclusion 2021 on Article 12§1). However, it found the levels of the following to be adequate: old-age pensions (Conclusion 2021 on Article 23), maternity benefits (Conclusion 2019 on Article 8§1) and invalidity and family benefits (Conclusion 2017 on Article 12§1).

With regard to unemployment, insofar as the Andorran social security system does not provide for a contributory benefit, the Committee refers to its assessment under Article 13 (social assistance).

Conclusion

The Committee concludes that the situation in Andorra is in conformity with Article 12§2 of the Charter.

Article 12 - Right to social security

Paragraph 3 - Development of the social security system

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee recalls that States were asked to reply to two targeted questions for Article 12§3 of the Charter as well as, where applicable, the previous conclusions of non-conformity or deferral (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

In its previous conclusion, the Committee found that the situation in Andorra was in conformity with Article 12§3 of the Charter (Conclusions 2017). It will therefore restrict its consideration to the Government’s replies to the two targeted questions, namely:

- social security coverage, and its modalities, provided to persons employed by digital platforms or whose work is managed via such platforms; and
- any impact of the Covid-19 crisis on social security coverage, and any specific measures taken to compensate for or alleviate any possible negative impact.

The Committee wishes to point out that it will take note of the reply to the second question for information purposes only, as it relates to developments that occurred outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle.

Platform workers

The Committee recalls that it has posed a targeted question to all States on social security cover for persons employed or whose work is managed by digital platforms. The emergence of these new forms of employment has had a negative impact on certain rights of these workers, as explained in the General Introduction. In matters of social security, compliance with Article 12§3 of the Charter requires that the existing social security systems be adapted to the specific situation and needs of the workers concerned, in order to guarantee that they enjoy the social benefits included within the scope of Article 12§1. The Committee is keenly aware that there are significant gaps in the social coverage of workers in new forms of employment such as platform workers. It considers that the States Parties are under an obligation to take all the necessary measures to address these shortcomings.

In particular States Parties must take steps to ensure that all workers in new forms of employment have an appropriate legal status (employee, self-employed or other category) and that this status is in line with the actual situation thus avoiding abuse (such as the use of “bogus” or “false” self-employed status to circumvent the applicable social security regulations) and conferring adequate social security rights as guaranteed by Article 12 of the Charter on the platform workers.

The Committee notes that the Government has not provided any information regarding the social security coverage of digital platform workers, and merely states that “the social security system of Andorra has no information on this subject”. The Committee therefore reiterates its question. It asks for information in the next report on the number of digital platform workers (as a percentage of the total number of workers), their status (employees, self-employed and/or other category), the number/percentage of these workers by status and their social security protection (by status). In the meantime, the Committee reserves its position on this point.

Covid-19

In response to the second question, the Government states that economic and social measures have been put in place since 23 March 2020 to preserve as many jobs as possible and provide social security coverage throughout the Covid-19 crisis. Social security coverage measures have concerned employees, self-employed persons and employers (companies). For example, a temporary incapacity benefit, similar to an occupational injury benefit, has been granted to employees and self-employed persons subject to a lockdown obligation (at-risk persons, persons who have been in contact with a person who has tested positive or persons with Covid-19); in addition, the Government has financed the share of contributions paid by employers into the social security system (15.5%) for employees who are temporarily absent from work due to the pandemic.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 12 - Right to social security

Paragraph 4 - Social security of persons moving between States

The Committee takes note of the information contained in the report submitted by Andorra.

Equality of treatment and retention of accrued benefits (Article 12§4)

Right to equal treatment

The Committee recalls that the guarantee of equal treatment within the meaning of Article 12§4 requires States Parties to remove all forms of discrimination against nationals of other States Parties from their social security legislation (Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4). Both direct and indirect discrimination should be eliminated. National legislation cannot reserve a social security benefit to nationals only or impose extra or more restrictive conditions on foreigners. Nor may national legislation stipulate eligibility criteria for social security benefits which, although they apply without reference to nationality, are harder for foreigners to comply with than nationals, and therefore affect them to a greater degree. However, pursuant to the Charter's Appendix legislation may require the completion of a period of residence for non-contributory benefits. In this respect, Article 12§4a requires that any such prescribed period of residence be reasonable. The Committee considers that the right to equal treatment covers both equal access to the social security system and equal conditions for entitlement to social security benefits.

In its previous conclusion (Conclusions 2017) the Committee noted that some non-contributory benefits and allowances (the solidarity allowance for the elderly and the solidarity allowance for persons with disabilities) were subject to a length of residence requirement, which varied between three and 10 years. The Committee recalled that Article 12§4 allowed a residence requirement to be imposed on foreign nationals provided that it is not excessive (Conclusion XIII-4, Denmark). The Committee considered that ten and seven years of residence requirements were excessive. The Committee notes from the report in this respect that all persons, whether nationals or foreigners, should satisfy the length of resident requirement of seven to 10 years for entitlement to solidarity allowance. The Committee considers that this condition is excessive and harder for foreigners to comply with than nationals and therefore, affects them to a greater degree. Therefore, the situation is not in conformity with the Charter.

As regards equal treatment in respect of family benefits, the Committee recalls that the purpose of child benefits is to compensate the costs of maintenance, care and education of children. Such costs primarily occur in the State where the child actually resides.

The Committee further recalls that child benefits are covered by different provisions of the Charter, and in particular by Article 12§1 and Article 16 of the Charter. Under Article 12§1 States Parties have an obligation to establish and maintain a social security system including a family benefits branch. Under Article 16 States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be child benefits provided as part of social security, available either universally or subject to a means-test. States Parties have a unilateral obligation to pay child benefits in respect of all children resident in their territory on an equal footing, whether they are nationals or have moved from another State Party.

The Committee is aware that States Parties that are also EU Member States, on the basis of the EU legislation on coordination of the social security system are obliged to apply coordination rules which to a large extent prescribe exportability of child benefits and family allowances. When the situation is covered by the Charter, and the EU legislation does not apply, the Committee has regard to its interpretation according to which the payment of child benefits to all residing children, as a starting point, is a unilateral obligation for all States

Parties. The Committee decides no longer to examine the issue of exportability of child benefits under Article 12§4a.

Under Article 12§4a of the Charter the Committee will only examine whether child benefits are paid to children, having moved from another State Party, on an equal footing with nationals, thus ensuring equal treatment of all resident children. Under Article 16 the Committee will examine equal treatment of families as regards access to family benefits and whether the legislation imposes length of residence requirement on families for entitlement to child benefit.

The Committee notes from the report that according to Article 5 of Law 6/2014 the residence requirement is imposed on parents who apply for child benefit. They do not have to prove that the child is resident in Andorra when the application is made. The Committee considers that the situation is in conformity with the Charter in this respect.

Right to retain accrued rights

The Committee recalls that old-age benefit, disability benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one State according to the eligibility criteria laid down under national legislation should be maintained (exported) irrespective of whether the beneficiary moves between the territories. The Committee asks what is the legal basis for exportability of old age, disability and survivor's benefits and international coordination in the social security field with non-EEA States.

In its previous conclusion the Committee considered that it had not been established that the right to retain accrued benefits was guaranteed. The Committee notes from the report that Andorra is currently engaged in preparing association agreement with the EU. The Committee considers that there is no change to the situation and therefore, it reiterates its previous finding of non-conformity.

Maintenance of accruing rights

The Committee recalls that under Article 12§4b there should be no disadvantage in terms of accrual of rights for persons who move to another State for employment in instances in which they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory for the purposes of the opening, calculation and payment of benefits. In the case of long-term benefits, the pro-rata approach should also be employed. States may choose between the following means in order to ensure maintenance of accruing rights: bilateral or multilateral agreement or, unilateral, legislative or administrative measures. States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights

In the absence of any new information in the report, the Committee reiterates its previous finding of non-conformity. The Committee also asks how the maintenance of accruing rights and accumulation of insurance periods is guaranteed in the absence of agreements.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 12§4 of the Charter on the grounds that:

- legislation imposes excessive length of residence requirement for eligibility to certain social security benefits;
- it has not been established that the right to retain accrued benefits is guaranteed;
- it has not been established that the right to maintenance of accruing rights is guaranteed.

Article 13 - Right to social and medical assistance

Paragraph 1 - Adequate assistance for every person in need

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

Therefore it will focus on the Government's replies to the targeted questions, namely about measures taken to ensure that the right to social and medical assistance is ensured and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the Covid-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

The previous conclusion considered that the situation in Andorra was not in conformity with Article 13§1 of the Charter on the ground that it was not established that foreign nationals unlawfully present in the territory are entitled to emergency social and medical assistance.

General legal framework, types of benefits and eligibility criteria

In 2016, the Government adopted a benefit regulation which regulates in a grouped and systematic way solidarity allowances for the elderly and the disabled, family benefits for dependent children and occasional economic aid.

The report explains that occasional economic benefits are temporary personal benefits intended to finance expenses related to the care of specific needs and for a specific period. Solidarity allowances, on the other hand, are regular economic benefits intended to guarantee a minimum income to enable people with a disability that prevents them from working to live in dignity, as well as elderly people without sufficient resources to live on.

The most recent amendment was approved on 7 December 2020 in order to relax the requirements for housing subsidies, taking into account the situation in the housing market and the social and economic crisis caused by the health emergency in COVID-19. The Committee takes note of Law no. 6/2014 of 24 April on social and socio-sanitary services which, according to the report, constitutes a significant step forward in the organisation and consolidation of the Andorran social protection system, in that it establishes a whole range of benefits that complement those established by the social security regulations.

Levels of benefits

In assessing the situation for the period under review, the Committee takes into account the following elements:

- Basic benefit: the Committee understands that the LECS (economic threshold for social cohesion) is used to determine the existence of a situation of need and represents the minimum guaranteed income. It also understands that it is the threshold used as a means test for social assistance. It also understands that those whose income is below the LECS receive a sum corresponding to the difference between their resources and the LECS as social assistance. The Committee had requested in its previous conclusion that the next report should confirm that this was the case, but no response was provided on this point.

- Supplementary benefits: the Committee had also asked about the amount of other benefits that a single person with no resources receiving basic social assistance can receive (e.g. housing and heating allowances, transport allowances).
- Poverty line: there is no information on this in the report. The Committee notes that the reference value for the calculation of the subsistence minimum is the LECS, which is equivalent to the minimum wage. According to information on the Andorran administration's website, the minimum wage was €1083.33 in 2020 and became €1121.47 from 1 January 2021. The average income, according to the administration's statistical data for 2019, was €2088.53. The Committee understands that the LECS corresponds to more than 50% of the adjusted median income (at-risk-of-poverty rate established by Eurostat).

The Committee considers that social assistance is generally above the Eurostat poverty line. However, the Committee reiterates the importance of submitting detailed information, especially data concerning the poverty line, the calculation of benefits, the amount of basic benefits, the amount of the minimum wage and the amounts of average wages. The Committee also expects an answer to its question concerning the conditions for the granting of social assistance. If this answer is not given in the next report, there will be no evidence that the situation is in conformity with the Charter and that the benefits are accessible. Pending the information requested, the Committee considers the situation to be in conformity with the Charter as regards the level of benefits.

Right of appeal and legal aid

The Committee had requested in its previous conclusion updated information on the right of appeal and legal aid. The Committee reiterates its request.

Personal scope

The specific questions asked in relation to Article 13§1 this year do not include an assessment of assistance to nationals of States Parties legally residing in the territory. Therefore, this particular issue will only be assessed if there was a request for information or a non-compliance in the previous round.

Foreign nationals unlawfully present on the territory

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic material human needs (food, clothing, shelter) in emergency situations to meet a state of urgent and severe need. Equally, it is for States Parties to ensure that this right is made effective also in practice (European Federation of National Organisations Working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

In its previous conclusions (Conclusions 2013, 2015 and 2017) relating to Article 13§4, the Committee considered that it was not established that all foreign nationals in an irregular situation were entitled to emergency social and medical assistance.

In its previous conclusions (Conclusions 2015, 2017), the Committee noted that Law No. 6/2014 of 24 April 2014 provided for the possibility of occasional financial assistance to foreigners in an irregular situation to cope with urgent difficulties that no longer allow them to ensure their subsistence (Article 5§4). He had also noted that foreigners in an irregular situation were entitled to information and advice from the teams providing primary health care (*equips d'atenció primària*) (Article 28§1(d) of Law No. 6/2014); it had asked what exactly this provision meant and whether it meant that foreigners in an irregular situation could benefit from diagnosis and treatment in the units providing primary social and health care. With regard to medical assistance, the Committee had asked to clarify whether non-

resident aliens in an irregular situation could obtain emergency medical assistance free of charge.

The Committee notes that according to the report, aid is provided to people in a social emergency situation regardless of their administrative situation, which may cover needs relating to food, hygiene, clothing, housing, return assistance and other urgent needs. The assistance can last for 15 days and can be extended exceptionally for another 15 days, after which time the assistance is terminated, even if the situation persists, although people can apply for ordinary assistance if they meet the residence requirements. There is no information on medical assistance. The Committee considers that the situation is not in conformity, on the grounds that it is not established that not all foreign nationals in an irregular situation on Andorran territory have guaranteed the right to emergency social and medical assistance in all cases.

Medical and social assistance during the Covid-19 pandemic

The Government approved a Decree on 17 April 2020 for the temporary modification of access to social and socio-sanitary services due to the Covid-19 pandemic in order to ease access to housing assistance, unemployment assistance and other assistance for residents who had suffered an economic loss due to the pandemic. These benefits were therefore granted to foreign nationals with temporary work permits who were unable to return to their countries of origin, as well as to national citizens due to their vulnerability.

The government, local administrations as well as non-profit organisations organised campaigns to provide basic needs and cover the cost of medicines for people in such situations. The Red Cross provided meals on wheels and accommodation costs were also paid by the administrations. The Immediate Attention Service granted 17 occasional emergency economic aids during the period of 2020.

Conclusion

The Committee concludes that the situation in Andorra is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that all foreign nationals unlawfully present on Andorran territory are entitled to emergency social and medical assistance.

Article 13 - Right to social and medical assistance

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in the current cycle.

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in the current cycle.

Article 13 - Right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”). However no targeted questions were posed in respect of Article 13§4. The Committee deferred its conclusion in 2017. It will therefore restrict its consideration to the Government’s replies to the Committee’s request for information.

The Committee also refers to the conclusions adopted in 2017 under Article 13§1 (personal scope) and recalls that Article 13§4 only covers emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

Finally, the Committee recalls that States Parties are required to provide non-resident foreigners, without resources, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, to cope with an urgent and serious state of need (without interpreting too narrowly the ‘urgency’ and ‘seriousness’ criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171).

In its previous Conclusion of 2017 under Article 13§4 the Committee asked information regarding emergency social and medical assistance provided to lawfully present foreigners without resources in Andorra. This information is not given in the report and therefore, the Committee reiterates its questions. In case this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 14 - Right to benefit from social welfare services

Paragraph 1 - Promotion or provision of social services

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee recalls that Article 14§1 guarantees the right to benefit from general social welfare services. It notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

Therefore, it will focus on the Government’s replies to the targeted questions, namely how and to what extent the operation of social services was maintained during the COVID-19 crisis and whether specific measures were taken in view of possible similar crises arising in the future. The Committee wishes to point out that it will take note of the information provided in reply to the question relating to COVID-19 for information purposes only, as it relates to developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the COVID-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

As regards the description of general organisation of social services, the Committee refers to its previous conclusion (Conclusions 2017) in which it found the situation to be in conformity with the Charter. The report does not indicate any changes in this respect.

In response to the targeted questions, the report provides that during the COVID-19 pandemic, the report provides that provision of social services continued, with the exception of stationary care centers for elderly, which have been temporarily closed due to an elevated infection risk. The government adopted measures enabling provision of certain services by means of telecommunication, such as psychological support, supervision of vulnerable groups. Other services continued in person under enhanced sanitary protection rules.

As regards specific measures taken in anticipation of similar crises in the future, the report provides that a new socio-sanitary model for care centers for elderly is being developed, which envisages transformation of traditional centers into individual or small group housing with provision of paramedical services.

Conclusion

The Committee concludes that the situation in Andorra is in conformity with Article 14§1 of the Charter.

Article 14 - Right to benefit from social welfare services

Paragraph 2 - Public participation in the establishment and maintenance of social services

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee recalls that Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services. The “individuals and voluntary or other organisations” referred to in paragraph 2 include the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms.

The Committee further notes that for the purposes of the current examination, States were asked to reply to the specific targeted questions posed to States in relation to this provision (questions included in the appendix to the letter of 3 June 2020, in which the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the scope of the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals. States were therefore requested to provide information on user involvement in social services (“co-production”), in particular on how such involvement is ensured and promoted in legislation, in budget allocations and decision-making at all levels, as well as in the design and delivery of services in practice. Co-production is understood here to mean that social services work together with users of the services on the basis of fundamental principles, such as equality, diversity, accessibility and reciprocity.

The report provides that social and health services are governed, according to article 3 of Law 6/2014 on social and health services, by the principles of co-responsibility and person-centered care. In terms of co-responsibility, the achievement of the objectives of social and socio-health services is shared between the public authorities – Government, COMMIS and other public and para-public entities, the beneficiaries of the services, as well as the private entities. All services are of a contractual nature, in accordance with the individual work plan agreed with the beneficiary and under the conditions set by the regulations. For home care services, early care services, day services (day centers), child care services, child and adolescent care services, nursing homes, assisted living services and guardianship services, the individual or family care plan, agreed upon with the user and, if applicable, with the user’s family, guardian or legal representative, must be included in the individual file. The Committee asks whether, in addition to the legislative support of the user-involvement, any practical measures to support it, including budgetary, have been adopted or envisaged.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 14§2 of the Charter.

Article 23 - Right of the elderly to social protection

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

Therefore it will focus on the Government’s replies to the targeted questions, namely about measures taken to ensure that the social and economic rights of older persons are respected and Covid-19 and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (namely, after 31 December 2019). In other words, the information referred to in the Covid-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

The previous conclusion found the situation to be in conformity (Conclusions 2017).

Autonomy, inclusion and active citizenship

Legislative framework

The Committee recalls that Article 23 of the Charter requires State Parties to undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular to enable older persons to remain full members of society for as long as possible. The expression “full members of society” used in Article 23 requires that older persons must suffer no ostracism on account of their age. The right to take part in society’s various fields of activity should be ensured to everyone active or retired, living in an institution or not.

The Committee takes due account of contemporaneous definitions of ageism which refer to the stereotypes, prejudices and discrimination directed towards other or oneself based on age (see for example WHO report on Ageism, 2021, p. XIX) As the World Health Organisation has noted, “... ageism has serious and far-reaching consequences for people’s health, well-being and human rights“(WHO report on Ageism, 2021, p. XVI).

The Covid-19 crisis has exposed and exacerbated a lack of equal treatment of older persons. This has included in the healthcare context, where there have been instances of rationing of scarce resources (e.g. ventilators) based on stereotyped perceptions of quality of life, vulnerability and decline in old age.

Equal treatment calls for an approach based on the equal recognition of the value of older persons’ lives in all the areas addressed by the Charter.

Article 23 of the Charter requires the existence of an adequate legal framework for combating age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services, such as insurance and banking products, allocation of resources and facilities. Discrimination against older persons in terms of social rights enjoyment, is also contrary to Article E.

The overall emphasis in the Charter on using social rights to underpin personal autonomy and respect the dignity of older persons and their right to flourish in the community requires a commitment to identifying and eliminating ageist attitudes and those laws, policies and other measures which reflect or reinforce ageism. The Committee considers that States Parties, in addition to adopting comprehensive legislation prohibiting discrimination on

grounds of age, must take a wide range of measures to combat ageism in society. Such measures should include reviewing (and as necessary amending) legislation and policy for discrimination on grounds of age, adopting action plans to ensure the equality of older persons, promoting positive attitudes towards ageing through activities such as society-wide awareness campaigns, and promoting inter generational solidarity.

Article 23 further requires that States Parties provide for a procedure of assisted decision making.

The Committee previously noted that Andorra was drafting legislation on on equal treatment and non-discrimination. The Committee asked whether age would be included as a possible ground of prohibited discrimination (Conclusions 2017). No information is provided on this issue. The Committee asks again whether there exists legislation prohibiting discrimination on grounds of age outside of employment.

The Committee recalls that there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves. Older persons must not be assumed to be incapable of making their own decisions just because they have a particular medical condition or disability.

States Parties must take measures to replace regimes of substituted decision-making by supported decision-making, which respects the person's autonomy, will and preferences. These may be formal or informal.

Older persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own.

In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons. It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights (Statement of Interpretation 2013).

The Committee asks the next report to provide information on assisted decision making procedures.

Prevention of abuse of older persons

The Committee asks for updated information to be provided in the next report, on measures taken to combat abuse of older persons (beyond the institutional care context) such as measures to raise awareness of the need to eradicate older abuse and neglect, and any legislative or other measures. It also asks whether data has been collected which would indicate the prevalence of older abuse.

Independent living and long term care

The Committee asks whether steps have been taken to move way from the institutionalisation of older persons and adopt a long term care and support in the community model. The Committee recalls that Article 23 provides that measures should be taken to enable older persons to lead independent lives in their familiar surroundings therefore it considers that older persons requiring long term care should be able to choose their living arrangements. In particular, this requires States Parties to make adequate provision for independent living, including housing suited to their needs and state of health, as well as the necessary resources and supports needed to make independent living possible.

Institutionalisation is a form of segregation, often resulting in a loss of autonomy, choice and independence. The Covid-19 pandemic has put the spotlight on the shortcomings of institutionalised care. The Committee refers in this respect to its Statement on Covid-19 and social rights (adopted March 2021) where it stated that enabling older persons to remain in their familiar surroundings as required by Article 23 of the Charter has become even more important in view of the heightened risk of contagion in the congregated settings of nursing

homes and other long-term institutional and residential facilities and to the human rights-based argument for investment in the community to give reality to the right to community living is now added a public health argument in favour of moving away from residential institutions as an answer to long term care needs.

The Committee notes that the report mentions the action plan *Horitzo 23* which seeks to reinforce and develop available supports for older persons. In this context the Ministry of Social Affairs, Housing and Youth in collaboration with other public and private bodies is working on developing alternatives to institutions, such as apartments with services. In addition the Committee notes that in order to allow older persons to remain in their usual surroundings the range of support services will be increased as will the night and weekend services offered by the service for home based services (SAD). The Committee asks to be kept informed of all developments in this respect.

The Committee asks the next report to provide updated information on the progress made in providing care in the community, it asks in particular how many older persons reside in institutions- residential care and trends in the area.

Services and facilities

The report provides very general information on services and facilities available to older persons. Services are provided by the Ministry for Social Affairs and the communes. A department for personal autonomy exists within the Ministry in order to promote integration of dependent persons such as older persons.

A department of social-health services was created in 2016 within the Ministry of Social Affairs to plan, organise and supervise social and medical services for older persons. A socio medical council for dependent older persons (COVASS) and a service for the provision of home based services exists (SAD).

The report also mentions the existence of a plan “You are important” which inter alia, seeks to encourage the participation of older persons in society and prevent their isolation.

The Committee asks the next report to provide updated information on the range of services and facilities available to older persons, including long term care, in particular those enabling them to remain active members of their community and to remain in their home. It further asks for information on the costs of such services, whether there is an adequate supply of care services, including long term care services and whether there are waiting lists for services.

The Committee asks what support is available for informal carers.

The Committee previously noted that information on the existence of the services and facilities available was available online and was adapted to older persons needs and that the Government was working on a guide to accessibility (Conclusions 2017). The Committee notes that many services (and information about services) are increasingly accessible online. Digitalisation provides opportunities for older persons. However older persons may have more limited access to the internet than other groups and may lack the necessary skills to use it. Therefore, the Committee asks what measures have been taken to improve the digital skills of older persons, ensure the accessibility of digital services for older persons, and ensure non-digital services are maintained.

Housing

The Committee asks the next report to provide information on how the needs of older persons are taken into account in national or local housing policies and strategies as well as information on the supply of sheltered/supported housing and the range of accommodation options for older persons.

Health care

The Committee asks that the next report provide information on healthcare programmes specifically designed for older persons.

The Committee notes that the pandemic has had devastating effects on older persons' rights, in particular their right to protection of health (Article 11 of the Charter), with consequences in many cases for their rights to autonomy and to make their own decisions and life-choices, their right to continue to live in the community with adequate and resilient supports to enable them to do so, as well as their right to equal treatment in terms of Article E when it comes to the allocation of health care services including life-saving treatments (e.g., triage and ventilators). Whether still living independently or not, many older persons have had their services removed or drastically reduced. This has served to heighten the risk of isolation, loneliness, hunger and lack of ready access to medication.

Further the Covid-19 crisis has exposed examples of a lack of equal treatment of older persons, too much space was allowed for implicit judgments about the 'quality of life' or 'worth' of lives of older persons when setting the boundaries for triage policies.

The Committee also asks whether decisions around the allocation of medical resources may be made solely on the basis of age and asks whether triage protocols have been developed and followed to ensure that such decisions are based on medical needs and the best scientific evidence available.

Institutional care

The Committee refers to its statement above on the importance of moving away from institutional care and towards care in the community.

The Committee considers that the overall emphasis in the Charter on personal autonomy and respect for the dignity of older persons, results in a pressing need to re-invest in community-based supports as an alternative to institutions. Where, in the transition period, institutionalisation is unavoidable, Article 23 requires that living conditions and care be adequate and that the following basic rights are respected: the right to autonomy, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact (including through internet access) with persons close to the elderly person and the right to complain about treatment and care in institutions. This also applies in the Covid-19 context.

Due to the specific Covid-19 related risks and needs in nursing homes, States Parties must urgently allocate sufficient additional financial means towards them, organise and resource necessary personal protective equipment and ensure that nursing homes have at their disposal sufficient additional qualified staff in terms of qualified health and social workers and other staff in order to be able to adequately respond to Covid-19 and to ensure that the above mentioned rights of older people in nursing homes are fully respected.

Adequate resources

When assessing adequacy of resources of older persons for the purposes of Article 23, the Committee takes into account all social protection measures guaranteed to older persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to older persons. These resources will then be compared with median equivalised income. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee notes from the report and previous reports recalls that an older person who receives a social security pension paid by the Andorran Social Security Fund or a foreign fund which is less than the Social Cohesion Economic Threshold (LECS) may, under certain conditions, be entitled to the solidarity allowance and have his or her income topped up to

equal the LECS (amount of the minimum wage). The Committee asks whether persons who have no pension are also eligible for this allowance.

Finally the Committee notes that persons in receipt of a solidarity allowance are entitled to free health care.

Covid-19

The Committee asked a targeted question on measures taken to protect the health and well-being of older persons in the context of a pandemic crisis such as Covid-19. According to the report a socio health monitoring committee was established to coordinate measures in response to the Covid-19 pandemic and to evaluate its impact in social medical centres.

The report states that among the measures taken to protect older persons during the pandemic two hotels were made available care for and treat residents of social medical centres and visits to social medical centres were restricted. In addition day centres for older persons were closed, however home based services were improved and increased. An additional allowance was made available to cover the cost of additional home services.

The report states that during the Covid-19 pandemic 30 inspections were carried out in socio-medical services in order to ensure the protocols established by the Ministry for Health were being correctly implemented.

It recalls Article 23 requires that older persons and their organisations be consulted on policies and measures that concern them directly, including on ad hoc measures taken with regard to the current crisis. Planning for the recovery after the pandemic must take into account the views and specific needs of older persons and be firmly based on the evidence and experience gathered in the pandemic so far.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Andorra is in conformity with Article 23 of the Charter.

Article 30 - Right to be protected against poverty and social exclusion

The Committee takes note of the information contained in the report submitted by Andorra.

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions related to this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter with respect to the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

Therefore, it will focus on the Government's replies to the targeted questions, namely about measures (legal, practical and proactive, including some concerning supervision and inspection) taken to ensure that no person falls below the poverty threshold, during or after the Covid-19 crisis, the impact of these measures and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 which relates to developments outside the reference period (namely, after 31 December 2019) for information purposes only. In other words, the information referred to in this section – "Poverty and social exclusion in times of the Covid-19 crisis" – will not be assessed for the purposes of Charter compliance in the current reporting cycle.

The Committee deferred its previous conclusion (Conclusions 2017).

Measuring poverty and social exclusion

The Committee recalls that, under Article 30, States Parties must provide detailed information on how they measure poverty and social exclusion. The main indicator used by the Committee to measure poverty is the relative poverty rate. This corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income.

In its previous conclusion, the Committee noted that an IT system was being developed which would allow the integration of data from all relevant ministries and authorities. It also noted that data on poverty rates before and after social transfers would be available in the new system as from 2018. In addition, the Committee observed from various sources that it was estimated that in view of the nature of the Andorran economy, its income structure and the size of its population, the incidence of poverty was very low. Therefore, it asked for an estimate of the at-risk-of-poverty rate calculated according to the Eurostat methodology (persons with an income of 60% of median equivalised income or less) and the poverty rate before and after social transfers.

In reply, the report states that, in 2018, the poverty rate was €11,994 for households with one adult and €25,187 for households with two adults and two children under 14.

The report indicates that in 2018, the at-risk-of-poverty rate was 12.8% for the entire population; 13.3% for children under the age of 16; 12.1% for persons between 16 and 64 years of age; and 19.9% for persons over 65. The at-risk-of-poverty rate before social benefits and pensions was 59.8% for the elderly and 24% for the population as a whole. By comparing the at-risk-of-poverty rate before and after social transfers, the Committee observes the strong impact of social benefits, in particular on the poverty rate of the elderly.

The Committee takes note of the detailed data concerning the at-risk-of-poverty rate according to the type of household. According to the report, the people most at risk of poverty are those living in households of one adult and dependent children (25.7%). The rate is 10.3% in households of two adults or more with dependent children, and 11.3% in

households of two adults or more with no dependent children. Moreover, the Committee notes that 3.5% of the population faces severe material deprivation.

Regarding the IT system, the report indicates that the “Shared social history” database is in its final stage of development and that it should be tested in July 2021 (outside the reference period) with a view to being fully operational as of September 2021.

The Committee notes that the overall at-risk-of-poverty rates (after social transfers) are relatively low. It also notes the positive effects of social transfers and the low severe material deprivation rate. However, owing to the lack of data for each year of the reference period, the Committee cannot determine the trends in the at-risk-of-poverty rate. It therefore asks that the next report contain information on the at-risk-of-poverty rate for each year of the reference period.

In addition, the Committee wishes to point out that Article 30 does not only concern poverty, but also social exclusion and the risk thereof. It asks that the next report provide detailed information on this point, including any statistical data on social exclusion.

Approach to combating poverty and social exclusion

In its previous conclusion, the Committee asked for information on the measures implemented and on the existence of coordination mechanisms for these measures, including at delivery level. It also asked for detailed data demonstrating that the budgetary resources allocated to combating poverty and social exclusion are sufficient (Conclusions 2017).

In reply, the report states that coordination, resource optimisation and ensuring a cross-cutting approach were among the guiding principles of Law No. 6/2014 of 24 April 2014 in respect of social and health services. According to the report, basic social services are in permanent contact with local authorities, other public bodies and the main not-for-profit organisations to avoid any overlapping between the players involved in social protection. The basic social services assess the personal and family situation of benefit recipients. Moreover, the report indicates that the National Committee for Social Protection was established by Law No. 6/2014 as a policy and technical body for ensuring coordination and cooperation between the government and the “Comuns” on aspects of common interest in the field of social services.

The Committee also refers to its conclusions of non-conformity regarding other relevant provisions of the Charter for an assessment of conformity with Article 30 (see Conclusions 2013 and the Statement of interpretation on Article 30). It refers in particular to:

- Article 12§1 and its conclusion that the minimum levels of sickness, occupational injury and occupational diseases benefits are inadequate (Conclusions 2021);
- Article 7§5 and its conclusion that the minimum wage of young workers is not fair and that apprentices do not receive adequate allowances (Conclusions 2019);
- Article 31§2 and its conclusion that the law does not prohibit carrying out evictions during winter, and that it has not been demonstrated that it provides compensation in the event of illegal eviction (Conclusions 2019).

However, wishing to underline the very close link between the effectiveness of the right enshrined in Article 30 of the Charter and the enjoyment of the rights recognised in other provisions of the Charter (see Conclusions 2013 and the Statement of interpretation on Article 30), the Committee notes that the situation in Andorra is in conformity with the following articles of the Charter: 1§1 (policy of full employment, Conclusions 2020); 10§4 (long-term unemployed persons, Conclusions 2020); 14§1 (promotion or provision of social services, Conclusions 2021); 15§1 (vocational training for persons with disabilities, Conclusions 2020); 15§2 (employment of persons with disabilities, Conclusions 2021); 23 (right of the elderly to social protection, Conclusions 2021) and 31§1 (adequate housing, Conclusions 2019).

The Committee points out that to ensure the effective enjoyment of the right to protection against poverty and social exclusion, Article 30 requires that States parties adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights. The overall and coordinated approach must link and integrate policies in a consistent manner moving beyond a purely sectoral or target group approach, and there should be coordination mechanisms, including at the level of providing assistance and services to those who live in poverty or are at risk of poverty. It also points out that the measures taken to combat poverty and social exclusion must promote access to fundamental social rights, including employment, housing, training, education, culture and social and medical assistance, and remove the obstacles thereto (Conclusions 2003, France).

The Committee asks again that the next report provide information on the specific measures taken and/or planned to combat poverty and social exclusion. It asks again that detailed data showing that the budgetary resources allocated to fighting poverty and social exclusion are sufficient be provided. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Andorra is in conformity with Article 30 of the Charter in this respect. In the meantime, the Committee reserves its position on this point.

Monitoring and evaluation

In its previous conclusion, the Committee examined how individuals and voluntary associations take part in assessing measures to combat poverty and found that the situation was in conformity on this point (Conclusions 2017).

The Committee asks for the updated information on monitoring and evaluation of the effort to combat poverty and social exclusion to be provided in the next report.

Poverty and social exclusion in times of the Covid-19 crisis

The report indicates that Law No. 3/2020 of 23 March 2020 on exceptional and urgent measures due to the health emergency brought about by the Covid-19 pandemic tasked the government with introducing an amendment to the regulations dealing with financial benefits in the case of redundancies and rental assistance in order to ease the conditions for accessing such assistance for persons facing a worsening of their economic circumstances due to the pandemic.

In addition, an amendment to Decree No. 3-7-2019 approving the regulation on social welfare and health benefits was implemented to make the conditions for granting occasional financial aid more flexible and to adapt them to the circumstances arising from the health emergency. In particular, benefits for redundancies were adapted to ensure that persons made redundant because of the health crisis as of 13 March 2020 are entitled to them. Persons who left their job between 17 February 2020 and 14 March 2020 to start a new job after 14 March 2020, but who were unable to take up that new position due to the health emergency, and entrepreneurs who stopped working because of the permanent closure of their companies through no fault of their own as of 13 March 2020 are entitled to assistance as long as their economic and social circumstances worsened as a direct result of the health emergency. The requirements relating to the period of contributions to the social security fund have been eased: the period for registering with the employment service and the commitment to actively seek a job have been scrapped, and the deadline for dealing with applications has been reduced from two months to ten days.

In accordance with the above-mentioned Law No. 3/2020, exceptional paid leave has been introduced for parents with children under 14 years of age or who are disabled, who work in sectors not affected by the discontinuation of activities. This leave is meant for parents affected by school and kindergarten closures.

Regarding housing, the report indicates that the government has provided protection for persons with a temporary work permit who could not return to their country of origin due to

the health crisis. The “*Comuns*” have also provided accommodation to different vulnerable persons. Not-for-profit organisations (*Caritas Andorrana* and the Red Cross) have organised campaigns to provide basic care to and pay for the medical costs of vulnerable persons.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.