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EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

ARMENIA

This text may be subject to editorial revision.

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 Armenia, which ratified the Revised European Social Charter on 21 January 2004. The deadline for submitting the 15th report was 31 December 2020 and Armenia submitted it on 26 January 2021.

The Committee recalls that Armenia 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).

Armenia has accepted all provisions from the above-mentioned group except Articles 3§§2-4, 11, 12§2, 12§4, 13§3, 13§4, 14§1, 23 and 30.

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

The conclusions relating to Armenia concern six situations and are as follows:

– 5 conclusions of non-conformity: Articles 3§1, 12§1, 12§3, 13§1 and 14§2.

In respect of the situation related to Article 13§2, 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 Armenia under the Revised Charter.

The next report from Armenia 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 takes note of the information contained in the report submitted by Armenia.

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 (Conclusions 2017) the Committee found that the situation in Armenia was not in conformity with Article 3§1 of the Charter on the ground that there is no clearly defined policy on occupational health and safety. The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and 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.

In its previous conclusion, the Committee had called for the next report to provide information on the activities implemented under the National Strategy and results obtained (Conclusions 2017). The Committee reiterated its request that the next report provide information on the duty of the States Parties to carry out activities in terms of research, knowledge and communication relating to psychosocial risks. It also asked for a description in the next report of any changes to the legislative and regulatory framework regarding the culture of prevention in respect of occupational health and safety during the reference period. It repeated its request for information as to whether policies and strategies are periodically reviewed and, if necessary, adapted in the light of changing risks.

In reply to the questions addressed, the report indicates that the Armenian Government has established both the 2020-2022 Action Plan deriving from the National Strategy for Human Rights Protection and the 2019-2023 Action Plan. These plans aim to clarify and improve the regulation of labour relations within the scope of the right to decent work, and to bring the Republic of Armenia’s legislation into line with the requirements enshrined in international treaties. In the context of these plans, drafts of legal acts prescribing requirements for healthcare and ensuring the safety of employees are to be produced and submitted to the Office of the Prime Minister of the Republic of Armenia by the first quarter of 2022. The report explains that risk assessment and management in the healthcare sector and ensuring the safety of employees, including from socio-psychological risks, had been defined as a strategic goal in the Republic of Armenia’s Health and Labour Inspectorate’s 2020 Strategic Programme.

The report indicates that, on 5 October 2020, the Government of the Republic of Armenia, the Confederation of Trade Unions of Armenia and the Republican Union of Employers of Armenia signed a new collective agreement for a period of three years. This collective

agreement promotes the implementation of modern monitoring systems of working conditions and the prevention of accidents. It also promotes the development of proposals to establish a unified procedure for investigating and recording workplace accidents, as well as introducing an effective risk assessment system for compulsory insurance against accidents and occupational diseases in manufacturing.

The report indicates that complete State supervision over the fulfilment of the requirements of labour legislation regarding the right to safe and healthy working conditions will start as of 1 July 2021.

The Committee also notes the recent positive developments in Armenian legislative activity, within the reference period, which aim to foster and preserve a culture of prevention in occupational health and safety at a national level. The Committee also notes that the Republic of Armenia's Labour Code has been amended to allow the reorganized inspection body to exercise state supervision over compliance with requirements of labour legislation, other regulatory legal acts containing labour law standards, requirements for collective agreements and for employers in employment contracts. The reorganized inspection body is also allowed to impose sanctions in cases prescribed by law. However, the Committee observes that these developments were not applicable or implemented during the reference period. It also observes that the report does not provide adequate information on Armenia's legislative approach with regard to specific emerging or relatively new risks to health and safety to which workers are exposed in constantly evolving work environments, notably in connection with work-related stress and psycho-emotional risks in the working environment.

The Committee therefore asks the next report to provide comprehensive information on the content and implementation of the national occupational health and safety policy regarding the specific new risks to health and safety, such as those concerning new forms of occupation that involve assumed or accepted exposure to risk, those that involve the worker's intense attention or an expectation of high performance or increasing output or productivity, and those related to new or recurring stress or traumatic situations at work, as well as those related to working from home. It requests that the next report indicate whether policies and strategies are periodically reviewed and, if necessary, adapted in the light of changing risks.

Organisation of occupational risk prevention

The Committee notes that, according to the collective agreement of 5 October 2020, the implementation of the legislation on health care and safety of employees and the development of appropriate recommendations where necessary should be discussed with the Health and Labour Inspectorate on a yearly basis. The Committee also notes that according to Article 253 of the Code of the Republic of Armenia, the employer is obliged to inform and consult the employees when organizing activities aimed at ensuring the safety and health of employees. The report indicates as well that, for these purposes, the employer may establish a committee.

The Committee notes that the Republic of Armenia's Ministry of Health's Health Inspectorate was reorganized in June 2018 into the Health and Labour Inspectorate. With regard to healthcare and ensuring the safety of employees, the Health and Labour Inspectorate carries out functions such as supervising compliance with the legal and other regulatory requirements; risk management in the field of labour law; implementing preventive measures; and also imposing sanctions as prescribed by law in the field of labour law. The report explains that, in February 2020, the employees of the Republic of Armenia's Health and Labour Inspectorate participated in a four-day course entitled "Training on Enterprise Risk Assessment and Management: Theory and Practice", organised by the International Labour Organisation and conducted by its experts.

The Committee notes that the Health and Labour Inspectorate's functions and resources are targeted at both sectors at risk and economic entities. Economic entities are classified

according to the level of risk into high-, medium- and low-risk entities, and inspections are carried out once each year, every three years, or every five years, respectively. The report also states that, since 2018, the Health and Labour Inspectorate has conducted preventive measures.

Improvement of occupational safety and health

The Committee observes that, under the collective agreement of 5 October 2020, the Republic of Armenia's Union of Employers and the Confederation of Trade Unions of Armenia undertook to support the development of a policy on labour protection and of appropriate procedures in organisations, and to ensure their introduction, using, for that purpose, the experience of their experts and the literature published in this field.

The Committee takes note of the content of the collective agreement of 5 October 2020. However, it remarks that, in its previous conclusion, it had noted that the report had not provided any information on the involvement of public authorities in research relating to occupational health and safety, the training of qualified professionals, the definition of training programmes or the certification of processes (Conclusions 2017). The Committee had reiterated its requests and considered that if the requested information were not provided in the next report, there would be nothing to establish that the situation in Armenia is in conformity with Article 3§1 of the Charter in this respect. Since the report does not provide any information in this respect, the Committee finds that the situation is not in conformity with Article 3§1 of the Charter regarding the improvement of occupational safety and health.

Consultation with employers' and workers' organisations

The Committee remarks that the collective agreement of 5 October 2020 gives a mandate to develop appropriate proposals with the purpose of increasing the role of trade unions in the processes of ensuring the occupational safety and health of employees. It also gives a mandate to support the organisations in establishing committees on ensuring the safety and health care of employees. The Committee considers that this approach provides for dynamic consultation between workers and employers and should make it possible to identify new or emerging situations that represent a challenge to the right to safe and healthy working conditions. The Committee, therefore, asks the next report to provide information on how the consultation of the workers and workers' organisations takes place and how it has resulted in improving occupational safety and health conditions.

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 Committee notes that since the beginning of the pandemic, the Government has adopted regulations with a view to preventing the spread of the Covid-19 and ensuring the occupational safety and health of employees (Decision of the Government of the Republic of Armenia No. 298-N/2020 on declaring a state of emergency in the Republic of Armenia). These regulations have been adapted to the changing circumstances following the plans drawn up by the World Health Organization (Instruction of the Commandant of the Republic of Armenia No. Ts-17/2020, as well as by Decisions of the Commandant of the Republic of Armenia No. 27/2020 and No. 63/2020). The report points out that the Health and Labour Inspectorate of the Republic of Armenia has carried out, and continues to carry out, awareness-raising and monitoring activities.

The Committee also notes that, with a view to tackling the coronavirus disease, the Republic of Armenia's Ministries of Health and of Labour and Social Affairs have carried out training

sessions and webinars about the protection and education of staff working in medical organisations. Moreover, the report indicates that plans with targeted actions to prevent the spread of the pandemic among the staff of the Republic of Armenia's Armed Forces and the Police were drawn up. In the same vein, the report further indicates that personal protection equipment, sanitary-hygienic materials and disinfectants were provided to the subdivisions of the SNCO's Penitentiary Medical Centre located in penitentiary institutions. It also indicates that a series of distance-learning courses were organised for all the SNCO's staff concerning protection from the Covid-19 pandemic.

The Committee takes note of the information provided in the report stating that the facilities in charge of childcare and child protection operating under the Republic of Armenia's Ministry of Labour and Social Affairs, switched to a regime of closed operation after the Government declared the state of emergency. It also lists the measures taken in the facilities, such as daily sanitation; the use of alcohol-based sanitisers; simultaneous disinfection carried out twice a day; the taking of employees' temperatures; the testing of employees when necessary; provision of personal protection equipment (PPE) to all employees upon their entry to the workplace, and the forced inactivity of more vulnerable employees. The report indicates that, during the pandemic, the entry of the children into care facilities was allowed only based upon their test results, and that contact with the families is ensured. During the Covid-19 pandemic, the monitoring and supervision of the facilities were undertaken by means of regular reports, awareness-raising activities, and video-conferences. The report also indicates that similar measures were taken in day-care facilities for the social protection of elderly persons and in day centres for social care, remarking that, despite the epidemiological situation, services were being provided as usual.

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 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 within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources, 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.

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

The Committee concludes that the situation in Armenia is not in conformity with Article 3§1 of the Charter on the grounds that

- there is no clearly defined policy on occupational health and safety.
- public authorities are not involved in research relating to occupational health and safety, training of qualified professionals, definition of training programmes or certification of processes.

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 Armenia.

Risks covered, financing of benefits and personal coverage

The Committee recalls that Article 12§1 guarantees the right to social security to workers and their dependents including the self-employed. States Parties must ensure this right through the existence of a social security system established by law and functioning in practice. Social security, which includes universal schemes as well as professional ones, includes contributory, non-contributory and combined allowances related to certain risks. These are benefits granted in the event of risks which arise but they are not intended to compensate for a potential state of need which could result from the risk itself. A social security system exists within the meaning of Article 12§1 when it complies with the following criteria:

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

As regards **healthcare**, in its previous conclusion (Conclusions 2017) the Committee noted that primary healthcare was provided free of charge to all residents (universal healthcare system). However, in the absence of information concerning the personal coverage of secondary and tertiary medical care it considered that it had not been established that the social security system covered a significant percentage of the population for the health insurance, as required by the Charter. The Committee notes from the report in this regard that no system of secondary and tertiary medical assistance free of charge or at discounted prices has been put in place. Primary medical assistance is provided at outpatient-polyclinic institutions and is free of charge for the entire population, whereas specialised inpatient medical assistance is free of charge only for certain groups. The Committee also notes from MISSCEO that while primary care is universal, secondary and tertiary care is provided only assigned groups.

The Committee considers that under Article 12 the social security system must cover a significant percentage of the population for the health insurance. The Committee also refers to its conclusion under Article 13§1 of the Charter where it notes that many families do not have access to medical care. The Committee considers that it has not been established that the personal coverage of secondary and tertiary medical care is adequate.

As regards **employment injury benefit**, in its previous conclusion the Committee asked the next report to provide all relevant information concerning the categories of persons insured for employment injury risk.

The Committee notes from the report that Article 1 of Article 202 of the Labour Code provides that if the health condition of the employee has deteriorated due to the work performed and it is impossible to transfer him or her to another job that corresponds to his or her profession, qualification and health condition due to lack of a relevant job within the given organisation, he or she shall, in the amount established by legislation, be paid a benefit prior to receiving the opinion of the State Medical and Social Commission of Experts regarding his or her working capacity.

According to the report, where the employee has not been insured against accidents at the workplace and occupational diseases, the employer shall pay compensation for damage after the level of loss of working capacity is determined. According to part 1 of Article 212 of the Labour Code the monetary claims having arisen as a result of employment relations and related to damage caused to the life or health of an employee shall be compensated by the employer as prescribed by the legislation. According to Article 234 of the Labour Code of the Republic of Armenia, the material liability of the employer arises, where an employee not having been insured against accidents at the workplace and occupational diseases has fallen ill with an occupational disease, was mutilated or died.

Part 1 of Article 1078 of the Civil Code provides that in case of mutilation or other damage to the health of the person concerned, the lost salary (income) which he or she received or would have received, as well as additional expenses arising due to the deterioration of health, including expenses for medical treatment, supplementary nutrition, acquisition of medicines, prosthetics, nursing care, sanatorium-resort therapy, acquisition of special means of transport, obtaining of another profession shall be subject to compensation, where it is established that the injured person needs such types of support and care and does not enjoy the right to receive them free of charge.

The Committee observes that the responsibility of the employer to repair the damage caused to the employee as a result of occupational accidents arises in those cases where the employee is not insured against occupational accidents. The Committee asks the next report to indicate what the personal coverage of occupational diseases and accidents risk is – i.e. the percentage of persons covered out of the total active population. In the meantime, the Committee reserves its position as to the adequacy of personal coverage of this risk.

As regards **family benefit**, the Committee recalls that in its previous conclusion (2013) it considered that the family benefit mentioned in the report, was in fact a social assistance benefit. The Committee recalls in this regard that family benefits under Article 12§1 of the Charter should cover significant percentage of population and be provided either universally or subject to a means-test. Since the report does not provide any information about this benefit, the Committee considers that the existing system cannot be assimilated with the family benefit branch in the meaning of Article 12§1 of the Charter.

As regards unemployment benefit, in reply to the Committee's question in the previous conclusion, the report states that within the scope of employment policy reforms, a new employment policy model was introduced by the Law "On employment", the aim of which was to ensure stable employment through targeted employment support programmes. As a result of the changes, unemployment benefit was terminated, and the funds were allocated to active employment programmes. The Committee considers that the information on the employment programmes and vocational training programmes should be provided under Articles 1 and 9 and 10 of the Charter. The Committee considers that the social security system does not cover unemployment risk.

The Committee considers that in the absence of unemployment and family benefit branches of social security and in view of the fact that it has not been established that the personal coverage of healthcare is adequate, the right to social security is not guaranteed to all workers and their dependents. Therefore, the situation is not in conformity with the Charter.

Adequacy of social security benefits

The Committee recalls that under Article 12§1, the level of income-replacement benefits should be such as to stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income, as calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

In the absence of the Eurostat indicator, the Committee refers to the average monthly household income per person which stood at AMD 61,076 (€97,39) per month, and 50% of it represented AMD 30 538 (around €57), which the Committee will consider as the poverty threshold.

As regards the minimum amount of pension benefit, in its previous conclusion the Committee asked for an estimation of the level of old age labour pension for an employee having worked at the minimum wage level, with the minimum contributory period required of 25 years.

According to the report, the term "minimum amount of pension" was defined in 2019. It has been established that the amount of the work pension and the benefit (old-age benefit, disability benefit, and benefit in case of loss of breadwinner) cannot be less than the amount of the minimum pension set by the Government of the Republic of Armenia.

All the residents, regardless of the right to funded pension, shall be entitled to retirement pension from the age of 63 where their length of service is at least 10 years, and they shall be entitled to social pension (old-age benefit) from the age of 65 in case of absence of the required length of service. According to the report, the minimum amount of the retirement pension, as well as the amount of the social pension (old-age benefit, disability benefit, benefit in case of loss of a breadwinner) is set at AMD 26,500 since 1 January 2020. The minimum amount of disability work pension is AMD 33,700 for the first group, AMD 30,100 for the second group and AMD 26,500 for the 3rd group.

The Committee notes that the minimum amounts of social and disability pensions are given for January 2020, i.e. outside the reference period. Therefore, the Committee asks the next report to provide more precise information about the minimum levels of social pension, disability pension as well as sickness benefit and the average monthly household income per person. In the meantime, it reserves its position as regards the adequacy of social security benefits.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 12§1 of the Charter on the ground that the right to social security is not guaranteed to all workers and their dependents.

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 Armenia.

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”).

The Committee deferred its previous conclusion pending receipt of information on any change to the social security system, and in particular on the reform of employment policy, as well as the effect of the changes on the personal scope and the minimum level of income replacement benefits (Conclusions 2017). The Committee’s assessment will therefore relate to the information provided by the Government in response to the deferral conclusion and the two targeted questions with regard to Article 12§3 of the Charter, 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 targeted 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.

Development of the social security system

The Committee recalls that Article 12§3 requires States to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§1 and 12§2 have not been met or if these provisions have not been accepted. The expansion of schemes, protection against new risks or an increase in the level of benefits are all examples of improvement. A partly restrictive development in the social security system is not automatically in breach of Article 12§3. It should be assessed in the light of Article 31 of the 1961 Charter or Article G of the revised Charter. The assessment of the situation is based on the following criteria:

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

The Committee notes that the Government’s report does not mention any development of the social security system during the reference period (2016-2019). The Government provides a table indicating the number of persons in receipt of retirement pensions and old-age, disability and survivor’s benefits, along with the average amount of those pensions and benefits; however, the table only concerns 2019 and provides no information about any changes between 2016 and 2019. In terms of health care, the Government indicates that no

system of secondary or tertiary medical assistance available free of charge or at discounted prices has been put in place. The Government further confirms that unemployment benefits were discontinued (in 2015) as part of the employment policy reform (cf. Conclusion 2021 on Article 12§1).

The Committee takes note of the information provided by the Government on the active labour market programmes implemented during the reference period using funds formerly allocated to unemployment benefit. It notes that the number of unemployed persons covered by these programmes is small and that no information is provided on possible assistance measures for unemployed persons who are not (or are no longer) covered by these programmes.

In the light of the above, the Committee considers that it has not been established that measures have been taken to progressively raise the system of social security to a higher level.

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 concerning the social security coverage of digital platform workers. 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 targeted question, the Government states that 11 measures were taken in the area of social security to limit the negative consequences of the Covid-19 crisis. These measures were aimed, in particular, at socially disadvantaged families (i.e. receiving social benefit); families where the parents were unemployed; pregnant women who were unemployed in the case of single women or if their spouse was unemployed; private sector workers (except in financial organisations) dismissed between 13 and 30 March 2020; workers in entities operating in sectors affected by the pandemic (e.g. tourism and catering) and individual entrepreneurs operating in those sectors; electricity and natural gas subscribers (depending on invoiced consumption levels). The Government states the number of beneficiaries/requests for support and the amounts granted for each of the 11 measures. It adds that, in total, by 15 September 2020, some 2.14 million people had

received support under these measures, for a total amount of approximately AMD 25.34 billion (about €45 million).

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 12§3 of the Charter on the ground that it has not been established that steps have been taken to raise progressively the system of social security to a higher level.

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 Armenia.

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 Armenia was not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources is not adequate.

General legal framework, types of benefits and eligibility criteria

The Committee had previously asked to clarify the social assistance rights of the elderly (Conclusions 2017). The report states as regards access to social assistance of the elderly, that: a) the amount of social benefits for the elderly is AMD 18,000 per month as of 1 August 2016, an increase of AMD 1,000 compared to 2014; b) they also have the right to receive medical care and services free of charge, in case of having an indigence point of 30.01 or higher (in 2020, this point was set at 28.01 to include more beneficiaries); c) they have the right to pay lower rates for electricity and natural gas of up to 600 cubic meters per year, in case of having an indigence point above 20.

The Committee notes from the report that since 2020 the amount of the minimum pension has increased to AMD 26,500. As of 2019, the average amount of any pension in Armenia was AMD 40,100. Single (unemployed) pensioners not having resources (not having children with capacity for work or guardians prescribed by law) are entitled to social benefits where their pension does not exceed AMD 109,000. The report states that single (unemployed) pensioners not having resources in most cases receive social benefits as a supplement to their pension.

The report states that there are other benefits: for single persons not having resources, there is free daily food service in charitable canteens. The "Centre of Home Social Service Provision for Single Elderly and Disabled People", adjunct to the Ministry of Labour and Social Affairs of the Republic of Armenia, provides home care services to the single elderly and persons with disabilities based on their needs. In some cases, the State also provides co-financing and delegating services to non-governmental organisations that specialise in providing home care services to socially vulnerable people, most of which are single and disabled people. Home care envisages home services provided by social workers, social-psychological assistance provided by social workers and psychologists, medical care and services provided by doctors and nurses, as well as legal aid provided by legal counsellors.

The Committee understands from the information submitted in the report that in 2019 a pensioner living alone, who is still employed, may therefore receive the pension allowance of

AMD 40,100 in average, which is less than what they received in 2015 (where the pension was AMD 40,500), plus AMD 18,000 in benefit, compared to AMD 16,000 in 2014. An unemployed pensioner living alone may receive 109,000 in pension allowance (the same level as in 2014) plus 18,000 in benefit. The right to family (or social) benefit is determined based on the indirect method of assessment of the level of indigence of the family. The system of calculation has not changed since the former cycle for granting access to the right to family (or social) benefit since the last reporting cycle. The marginal poverty score for recognition of this right was reduced from 33.00 to 30.01 in 2008 and it has remained unchanged since 2014. Families above the marginal poverty score acquire the right to family (or social) benefit.

As regards medical care, the report states that beneficiaries of social assistance enjoy the right to medical care free of charge and on preferential terms guaranteed by the State, including in-patient medical care and services. Since 2019, they also enjoy medical services provided by the use of the latest and expensive technologies. According to a Decision of the Government of 30 May 2019, the beneficiaries with a poverty score of 30 and higher receiving the family benefit system are provided with medicines with full compensation of their value. In its former Conclusions adopted in 2017, the Committee noted already that free medical services were provided for households with a poverty score of 30 or higher. The present report informs that these free medical services have been extended, although they are offered to the same level of beneficiaries. However, the Committee had also noted that private financing was very strong in health expenditures in Armenia and that many families could not access their needed medical care.

In the light of the former considerations, the Committee concludes that access to free medical care is not sufficiently guaranteed and that therefore the situation is not in conformity with the Charter.

Level of benefits

- Basic benefit: according to MISSCEO and the report the base amount of benefit stood at AMD 18,000 (around € 40) since 2016. As regards the elderly persons, the Committee notes that the level of non-contributory social pension is set at AMD 26,500 (around € 49).
- Additional benefits: the Committee notes from MISSCEO and the report that there is no allowance for housing or heating. The Committee takes note of the supplements paid to families for emergencies, as well as for each family member under 18 years of age.
- Poverty threshold (defined as 50% of median equivalised income): in the absence of the Eurostat median equivalised income indicator, the Committee notes from official statistics that, in 2019, the average monthly household income was AMD 61,076 (€97,39 at the rate of 31/04/2021) per person per month, and 50% of it represented AMD 30 538 (around €57).

The Committee will refer to these thresholds in the assessment of the adequacy of benefits. The Committee considers that the amount of basic benefit, at AMD 18,000, falls below the poverty threshold and therefore, it is not adequate. As regards elderly persons, the amount of AMD 26,500 is also not adequate.

Right of appeal and legal aid

In its previous conclusion the Committee asked the next report to confirm that legal aid and advice is available for persons without resources in their appeal procedures and held that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

The report states that Law of the Republic of Armenia “On social assistance” stipulates the provision of legal aid as a type of basic social service, for the protection of the rights and

legitimate interests of a person in a difficult situation. The mentioned legal aid implies, according to the report, ensuring the right of appeal.

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 lawfully resident in the territory. Therefore, this particular issue will only be assessed if there was a request of information or a non-conformity in previous cycle.

Foreign nationals lawfully present in the territory

In its previous conclusion the Committee asked whether nationals of States Parties lawfully resident in Armenia are subject to length of residence requirement to be eligible for social assistance. The report reiterates the information previously submitted, in which, pursuant to Article 18 of the Law "On social assistance", any person residing in the Republic of Armenia, i.e. foreign nationals with a resident status, stateless persons, as well as persons holding a refugee status in the Republic of Armenia, in case of presence of the grounds prescribed by law shall have the right to social assistance. They enjoy the same rights as the citizens where they meet the requirements prescribed by the Law of the Republic of Armenia "On social assistance". The duration of residence is not essential for enjoying the rights provided for by the Law.

Foreign nationals unlawfully present in the territory

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States 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).

The report does not contain any specific information on this point. The Committee reiterates this question again, which refers to access to social assistance of foreigners or migrants in an irregular situation. If this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Medical and social assistance during the Covid-19 pandemic

The report does not contain any specific information in this point. The Committee asks that the next report provide information about medical and social assistance during the Covid-19 pandemic, indicating any specific measures taken to ensure social and medical assistance for persons without resources in this context.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 13§1 of the Charter on the grounds that:

- the level of social assistance paid to a single person without resources is not adequate;
- the level of non-contributory social pension for the elderly persons is not adequate;
- the right to access to medical care is not sufficiently guaranteed.

Article 13 - Right to social and medical assistance

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

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

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§2 of the Charter. The Committee deferred its previous conclusion. It will therefore restrict its consideration to the Government’s replies to its previous request for relevant complementary information.

The Committee recalls that Article 13§2 of the Charter concerns prohibition of discrimination of recipients of social or medical assistance in the enjoyment of their political and social rights. In its previous conclusions (Conclusions 2015, 2017) the Committee noted that under the Law on social assistance, it did not appear that beneficiaries of social assistance are discriminated against in their exercise of social and political rights. The Committee asked for it to be confirmed that this is the case, but the previous report did not provide any information in this respect. The Committee also asked whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

In the report it is stated that the Law “On social assistance” includes the prohibition of discrimination in social assistance and is enforced in practice. There is no more information.

Under Article 13§2 of the Charter any discrimination in terms of the enjoyment of social and political rights against persons receiving social or medical assistance must be eradicated in law and in practice. Therefore the Committee asks again for detailed information in the next report on how the principle of non-discrimination is enforced in practice and interpreted to prevent the use of receipt of social or medical assistance as justification for restriction with regard to political or social rights. If the relevant information is not provided, the Committee notes that there will be nothing to establish that the situation is in conformity with Article 13§2 of the Charter. In the meantime, the Committee reserves its position on this issue.

Conclusion

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

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 Armenia.

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 states that in the provision of social services great importance is attached to the role of non-governmental organisations and user involvement with the view to increasing the effectiveness of the services through co-operation. It provides many examples of cooperation with non-governmental organisations which implement various programmes and provide services, while receiving grants or being co-funded from the state budget. Examples of such cooperation concern persons with disabilities, older people, children and victims of trafficking. The report states that, among other things, representatives of persons with disabilities are involved in different commissions and working groups established by the order of the Minister of Labour and Social Affairs. It also indicates that the relevant organisations work closely with the users of the services, with a view to assessing their needs or to involve them directly. For instance, the Armenian Red Cross Organisation has established groups for healthy ageing in the community, which are joined by active older people on a voluntary basis, thus ensuring their voice is heard when collective decisions are being made. The report also states that when relevant reforms are being made to the legal framework, beneficiaries’ opinions and recommendations are gathered through non-governmental organisations.

The Committee had deferred its previous conclusion (see Conclusions 2017), reiterating its request for figures, statistics and all other relevant information illustrating the involvement of the voluntary sector in the provision of social services, as well as the actual access of individuals to these services (see Conclusions 2013). It also asked about the procedures and requirements for voluntary organisations to offer their services to users, including whether a system of licensing or accreditation was in place. Finally, it asked how the quality of the services provided by voluntary organisations was monitored. The Committee notes the efforts made to involve non-governmental organisations in the provision of social services, which are mentioned in the report in response to the Committee’s targeted questions. However, the report still does not provide the requested information, including statistical data and other information on procedures, accreditation or monitoring systems. The Committee therefore maintains that it cannot establish whether the situation is in conformity with Article 14§2 of the Charter.

Conclusion

The Committee concludes that the situation in Armenia is not in conformity with Article 14§2 of the Charter on the ground that it has not been established that public participation in creating and maintaining social services is effectively guaranteed in law and in practice.