March 2022

EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

AZERBAIJAN

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 Azerbaijan, which ratified the Revised European Social Charter on 2 September 2004. The deadline for submitting the 14th report was 31 December 2020 and Azerbaijan submitted it on 26 August 2021.

The Committee recalls that Azerbaijan 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).

Azerbaijan has accepted all provisions from the above-mentioned group except Articles 3, 12, 13, 23 and 30.

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

The conclusions relating to Azerbaijan concern five situations and are as follows:

– 4 conclusions of non-conformity: Articles 11§1, 11§3, 14, 2 and 14§2.

In respect of the situation related to Article 11§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 Azerbaijan under the Revised Charter.

The next report from Azerbaijan 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 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 Azerbaijan.

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 Azerbaijan was not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality were insufficient;
- public healthcare expenditure was too low (Conclusions 2017).

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.

Measures to ensure the highest possible standard of health

In its previous conclusion, the Committee found that the situation was not in conformity with Article 11§1 on the ground that the measures taken to reduce infant and maternal mortality have been insufficient (Conclusions 2017).

The report indicates that the infant mortality rate dropped significantly from 16.4 deaths per 1,000 live births in 2000 to 11 deaths per 1,000 live births in 2019 and to 9.8 deaths per 1,000 live births in 2020 (in 2015 it was 11 deaths per 1,000 live births as noted in the previous Conclusions 2017). According to Eurostat, the average EU-27 rate was 3.4 deaths per 1,000 live births in 2019. The same source indicates that the infant mortality rate (number of deaths per 1,000 live births) in Azerbaijan stood at: 10.4 in 2016, 11.8 in 2017, 11.1 in 2018 and 11 in 2019.

As regards the maternal mortality rate, the report indicates that it dropped from 37.6 per 100,000 in 2000 to 14.9 in 2019. The Committee notes that according to the World Bank data, the maternal mortality rate stood at: 27 deaths per 100,000 live births in 2015 and 26 deaths per 100,000 live births in 2016 and 2017. The Committee notes that the maternal mortality rate (EU average) in 2017 was 6 deaths per 100,000 live births.

In its previous conclusion, the Committee took note of the reforms initiated and the measures taken to reduce maternal and child mortality. It asked to be informed about the implementation of such measures, their effect on reducing the maternal and infant mortality rate, updated data regarding the trends of the mortality rates and on any developments in this field (Conclusions 2017).

The report lists the state programmes through which measures were implemented such as the "State Programme on Improvement of Maternal and Child Health 2014-2020" (already presented in the previous report); the "Action Plan for Reducing Child Mortality in the Republic of Azerbaijan in 2018-2019", the "National Action Plan for the Early Prevention and

Treatment of Childhood Disabilities in 2018-2020" and the "Action Plan to Prevent Gender-Biased Sex Selection" (2020-2025).

The Committee takes note of the above-mentioned programmes initiated and carried out during the reference period. It asks to be kept informed on the implementation of any measures taken, their effect on reducing the maternal and infant mortality rate, updated data regarding the trends of the mortality rates and on any developments in this field. However, it notes that the situation has not improved significantly in this regard since the previous reference period. In view of the high rates of maternal and infant mortality, as well as the continued low life expectancy, the Committee reiterates its conclusion of non-conformity on this point.

In a targeted question for this cycle, 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 life expectancy was 70.1 years for men and 76.5 years for women. The Committee notes from World Bank data that life expectancy at birth in 2019 (average for both sexes) was 73 years in 2019. It notes that the rate of life expectancy at birth has slightly increased since the previous reference period (72.3 years in 2015). However, the life-expectancy rate is low compared to other European countries. For instance, according to Eurostat, the average life expectancy at birth in the EU-27 was estimated at 81.3 years in 2019.

The report does not provide information responding to the request for 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.). The Committee reiterates its question.

Regarding the prevalence of particular diseases, the report indicates that the number of registered cancer patients increased from 34,681 in 2013 to 54,403 in 2020. The report further provides detailed data on the number of new cases of cancer in 2013 and 2020, showing an increase of cases for all types of cancer. For example, the total number of new cases of cancer in the country was 9,064 in 2013 and it reached 11,595 in 2020. The Committee notes this increasing trend and asks that the next report provide information on any measures taken in the field of cancer prevention, early detection and treatment.

The report provides statistical data on cases of HIV infection and Hepatitis C. It indicates that the annual rate of HIV infection is 0.09% for men and 0.05% for women. The number of cases of persons infected with Hepatitis C is on average 320 per year.

Access to healthcare

In its previous conclusion, the Committee concluded that the situation in Azerbaijan was not in conformity with Article 11§1 of the Charter on the ground that public healthcare expenditure was too low (Conclusions 2017).

The report provides the amount of state budget allocated to healthcare expenditure for the years 2018, 2019 and 2020. The Committee notes that, according to World Bank data, health expenditure in Azerbaijan represented 4.10% in 2015, 4.037% in 2016, 3.73% in 2017 and 3.5% in 2018. The Committee further notes that the OECD average for health expenditure represented 8.7% of the GDP in 2015, 8.8% in 2018 and 9% in 2019. It further

notes that, according to Eurostat, in 2019 in the EU-27, the total expenditure of governments on health amounted to EUR 983 billion or 7.0% of the GDP. Although the data provided by the report indicates an increase in the amount of expenditure on health over the period 2018-2020 in Azerbaijan, the Committee notes that health expenditure as a share of the GDP has decreased since the previous reference period, and it is still significantly lower compared to that of other European countries. The Committee therefore reiterates its conclusion of non-conformity on this point.

The Committee recalls that the right of access to healthcare also requires that arrangements for access to care must not lead to unnecessary delays in its provision (Conclusions XX-2 (2013), Poland). With regard to waiting times, the Committee has repeatedly asked for information about the rules that apply to the management of waiting lists and statistics on average waiting times in healthcare (Conclusions 2009, 2013 and 2017). It its previous conclusion, the Committee pointed out that if such information is not provided in the next report, there would be nothing to show that the situation is in conformity with the Charter on this point (Conclusions 2017). In the absence of such information in the report, the Committee concludes that the situation is not in conformity with the Charter on the ground that it has not been established that the provision of healthcare is not subject to long waiting times.

In a targeted question for this cycle, 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.

The report indicates that Azerbaijan was one of the first countries to adopt a reproductive health strategy. On January 30, 2008, the “National Strategy for Reproductive Health 2008-2015” was approved by the Ministry of Health of the Republic of Azerbaijan. The report further mentions state programmes such as the “State Programme on the Improvement of Maternal and Child Health 2014-2020”.

The Committee notes that, according to the issue paper “Women’s sexual and reproductive health and rights in Europe” (2017) by the Council of Europe Commissioner for Human Rights, in some European countries such as Azerbaijan, the rates of women using modern contraceptives are among the lowest in the world.

The Committee asks for information on the concrete measures taken to ensure the availability of sexual and reproductive health services, including in rural areas, and of 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 report does not provide any information on the access to abortion. The Committee asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part. It also asks whether abortion care is available in medical facilities across the country, including in rural areas.

With regard to underage motherhood, the report indicates that women aged 15-17 years gave birth to 2,421 babies in 2017, 2,129 in 2018, and 2,320 in 2019. Noting that the number of early pregnancies has remained high during the reference period, the Committee requests information on measures taken to decrease it. It also asks for information on the measures taken to ensure that girls have effective access to family planning and contraception.

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). In response, the report indicates that under Article 46 of the Constitution of the Republic of Azerbaijan, medical, scientific, or other types of experiments may not be carried out on any person without his/her consent. Under Article 24 of the Public Health Law, a patient has the right to give oral or written voluntary consent to medical intervention. According to Article 26 of the same law, if medical intervention is considered urgent due to life-threatening emergency or if the patient is unable to make a decision due to his/her physical or mental condition, the issue shall be decided by a "case conference". In cases where consultation is not possible, the decision on medical intervention shall be made by informing those responsible for treatment and the preventive care facility, or directly by the attending (on-call) physician. Where legally incapacitated persons and/or minors require medical intervention, their parents or legal representatives must duly provide their consent.

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 measures were taken to increase the capacity of the health system to treat Covid-19 patients. For example, the number of facilities having the necessary medical equipment increased from 3 to 46. It is reported that 9 modular new hospitals were built in order to treat Covid-19 patients and in total more than 10,000 beds were created across the whole country. The report further states that 64,038 healthcare workers involved in the fight against coronavirus received periodic allowances based on their working hours.

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

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality have been insufficient;
- public healthcare expenditure is too low;
- it has not been established that the provision of healthcare is not subject to long waiting times.

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 Azerbaijan.

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.

The Committee deferred its previous conclusion (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 Committee takes note of the detailed information provided in the report regarding the regulations, measures, and activities undertaken (information campaigns, training programmes, counselling, and education services, etc.) within the framework of various programmes aimed at the implementation of awareness-raising activities, especially among children, young people, and adolescents, but also among all segments of the population.

In its previous conclusion, the Committee asked for information on whether and how sexual and reproductive education was provided in schools in Azerbaijan (Conclusions 2017).

In its reply, the report quotes the Azerbaijan State Youth Program for 2017-2021, that includes raising awareness and improving young people's behaviour in reproductive health and family planning. The report indicates that more than 600 students and faculty members participated in 2018 in a series of events covering reproductive health at the initiative of the State Committee for Family, Women and Children Affairs with the support of the Ministry of Health and the Ministry of Education in the secondary vocational education institutions of Baku. These events involved specialists in relevant fields and aimed at promoting healthy lifestyles among young people and teenagers and at informing them about reproductive health and family planning. The report also explains that about 700 students and faculty members participated in some similar events in 2019.

In its targeted questions, the Committee also asked for information about awareness and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. The report does not contain the information requested. Therefore, the Committee reiterates its request. 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 Azerbaijan is in conformity with Article 11§2 of the Charter in this respect.

Counselling and screening

In its previous conclusion, the Committee asked for updated information regarding free specialised healthcare during pregnancy and childbirth, in particular on the frequency of medical checks, the proportion of women covered and the effectiveness of such screenings (Conclusions 2017). The report does not contain the information requested. Therefore, the Committee reiterates its request. 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 Azerbaijan is in conformity with Article 11§2 of the Charter in this respect.

In its previous conclusion, the Committee also asked about the proportion of pupils covered by medical examinations throughout the country, especially in rural areas (Conclusions 2017). The report does not contain the information requested. Therefore, the Committee reiterates its request. 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 Azerbaijan is in conformity with Article 11§2 of the Charter in this respect.

In addition, the Committee has previously requested information on screening programmes available in relation to the principal causes of death other than tuberculosis, HIV, and cancer (Conclusions 2017). The report does not contain the information requested. Therefore, the Committee reiterates its request. 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 Azerbaijan is in conformity with Article 11§2 of the Charter in this respect.

Conclusion

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

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 Azerbaijan.

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 Azerbaijan was not in conformity with Article 11§3 of the Charter on the grounds that legislation did not prohibit the sale and use of asbestos and that it had not been established that adequate measures were taken to prevent 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 notes that inmates are granted access to therapeutic, preventive, and sanitary-epidemiologic services within the prison system, and to more specialised treatment upon referral in community-based facilities. Information is provided regarding the complement of medical staff available in prisons and screening arrangements for new arrivals.

The Committee refers to the European Committee for the Prevention of *Torture* and Inhuman or Degrading Treatment or Punishment (CPT) reports on Azerbaijan of 2016 and 2017, which highlighted the shortages of qualified medical staff across all establishments visited, whether operating under the authority of the Ministry of Justice, of the Ministry of Health or of the Ministry of Labour and Social Protection.

The Committee asks for more detailed information about healthcare staffing levels in different types of establishments where people are deprived of their liberty, including those operating under the authority of the Ministry of Justice, the Ministry of Health and of the Ministry of Labour and Social Protection, as well as about the measures taken to address any shortages.

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 provides limited information on the number of individuals with mental health disorders found in psychiatric hospitals and in ordinary prisons, as well as the management of aggressive behaviour in psychiatric hospitals.

Consistent with the World Health Organisation (WHO) Comprehensive Mental Health Action Plan 2013-2030, and other relevant standards, the Committee considers that a human rights-compliant approach to mental health requires at a minimum the following elements: a) developing human rights-compliant mental health governance through, inter alia, mental health legislation and strategies that are in line with the Convention on the Rights of Persons with Disabilities and other relevant instruments, best practice and evidence; b) providing mental health in primary care community-based settings, including by replacing long-stay psychiatric hospitals with community-based non-specialised health settings; and c) implementing strategies for promotion and prevention in mental health, including campaigns to reduce stigmatisation, discrimination and human rights violations.

The Committee notes that the report does not address the targeted question, which refers to 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 further 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 Committee therefore reiterates its question and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Azerbaijan is in conformity with Article 11§3 of the Charter.

With regard to the use of coercion in closed psychiatric facilities, the Committee asks for an outline of measures taken with a view to promoting voluntary measures in mental healthcare and support.

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 provides information regarding the number of entrants to specialised drug treatment centres (first time and total) for the years 2018, 2019 and 2020, with a breakdown by age and the type of substance involved, the number of convictions and compulsory treatment orders for drug-related offenses, and the number of drug-related deaths in prison. The report also refers to a series of regulations and practices designed to restrict drug use.

The Committee refers to the 2016 CPT report on Azerbaijan, which reiterated a longstanding concern of that body regarding the approach towards inmates with substance abuse problems, which was essentially repression oriented. The CPT noted that it was still prohibited to use methadone inside the prison system (unlike in the community) and prisoners who had been on methadone therapy prior to incarceration had this therapy interrupted upon arrival. Further, no harm-reduction measures (e.g. distribution of condoms, syringe and needle exchange programmes, provision of disinfectant and information about how to sterilise needles) and only limited psycho-socio-educational assistance were available.

The Committee asks for information about any plans to review the policies in place regarding the management of inmates who are using drugs, with a view to moving away from repression, towards approaches based on dissuasion, education, and public health-based harm reduction approaches.

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.

In its previous conclusion, the Committee reiterated its request to be kept informed on the implementation of the measures and regulations adopted during the reference period, as well as on levels of air pollution, contamination of drinking water and food intoxication, namely whether trends increased or decreased during the reference period (Conclusions 2017). The Committee pointed out that in the absence of information in this respect in the next report, there would be nothing to show that the situation was in conformity with the Charter on this point.

The Committee notes that the information requested is not provided, 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, and to inform the public, including pupils and students, about general and local environmental problems. Therefore, the Committee reiterates its request for information. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to overcome environmental pollution.

In its previous conclusions, the Committee found that the situation was not in conformity with the Charter on the ground that the legislation did not prohibit the sale and use of asbestos (Conclusions 2009, 2013, 2017). The Committee notes from another source that as of 2021, Azerbaijan has not banned asbestos use.

The Committee notes that the information requested is not provided and asks for it to be provided in the next report. Meanwhile, the Committee reiterates its finding of non-conformity with Article 11§3 of the Charter on the ground that legislation does not prohibit the sale and use of asbestos.

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 Committee notes that the information requested is not provided.

Tobacco

In its previous conclusions, the Committee asked for updated information on trends in the consumption of tobacco (adults and youth) and on the measures taken to prevent and reduce tobacco consumption (Conclusions 2017). In the meantime, the Committee reserved its position on this point.

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its question and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Azerbaijan is in conformity with Article 11§3 of the Charter.

Accidents

In its previous conclusions, the Committee concluded that the situation was not in conformity with the Charter as it had not been established that adequate measures were taken to prevent accidents (Conclusions 2017).

The Committee notes that the information requested is not provided and asks for it to be provided in the next report. Meanwhile, the Committee reiterates its conclusion that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to prevent accidents.

Covid-19

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 outlines some of the preventive measures taken to limit the spread the Covid-19, with a focus on prisons. Notably, the report notes that 176 older inmates who were particularly at risk of Covid-19 had been released on compassionate grounds.

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

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§3 of the Charter on the grounds that:

- it has not been established that adequate measures were taken to overcome environmental pollution;

- legislation does not prohibit the sale and use of asbestos;
- it has not been established that adequate measures were taken to prevent accidents.

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 Azerbaijan.

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.

The Committee has previously concluded (Conclusions 2017) that the situation was not in conformity with the Charter on the ground that access to social services by nationals of other States Parties was subject to an excessive length of residence requirement (five years). The report states that the relevant provisions in this regard have not changed and therefore the Committee reiterates its conclusion of non-conformity.

The Committee recalls that social services must have resources matching their responsibilities and users' changing needs. This implies that:

- staff shall be qualified and in sufficient numbers;
- decision-making shall be as close to users as possible;
- there must be mechanisms for supervising the adequacy of services, public as well as private.

In its previous conclusions (Conclusions 2013 and 2017), the Committee asked information on these three elements. It also asked the next report to provide information on the qualification of social services' staff and the ratio of staff to users and the supervision of social services provided by private providers. The Committee notes that the report does not answer to its questions in particular on the qualification of social services' staff and the ratio of staff to users and the supervision of social services provided by private providers. Again, it reiterates its questions and considers that it has not been established that the quality of social services meets the requirements of the Charter as regards the qualifications and numbers of staff, mechanism for supervision of adequacy of services and user-close decision-making process.

In reply to the Committee's targeted questions, the report provides that during the COVID-19 outbreak, social services have been provided by taking into account the necessary measures. Necessary steps have been taken to limit the spread of the pandemic and to protect the vulnerable. In addition, new services, such as food supply, psychological support and online meetings have been developed. The report does not provide information on any specific measures taken in view of possible future such crises.

Conclusion

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 14§1 of the Charter on the grounds that:

- access to social services by nationals of other States Parties is subject to an excessive length of residence requirement of five years;
- it has not been established that the quality of social services meets the requirements of the Charter as regards the qualifications and numbers of staff, the existence of an effective mechanism for the monitoring of adequacy of services and decision-making at the level closest to users.

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 Azerbaijan.

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 Committee deferred its previous conclusion (Conclusions 2017), reiterating its request (see Conclusions 2013) for information on whether and how the Government ensures that services managed by the private sector are effective and are accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion. It held that if such information is not provided in the next report, there would be nothing to establish that the situation is in conformity with the Charter.

The report provides that reforms are ongoing in the field of social services and that a draft "National Strategy for the Development of Social Services in the Republic of Azerbaijan in 2020-2026" was prepared, reflecting the country's policy, the essence of social development, and mechanisms to regulate the development of the system of social services. The report does not address the issue of non-discriminatory and equal access to social services. The Committee requests that comprehensive information is provided in the next report and, meanwhile, considers that it has not been established that the situation is in conformity with the Charter on this point.

The report does not reply to the targeted questions on user involvement in social services and the Committee reiterates its request for information in this regard.

Conclusion

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 14§2 of the Charter on the grounds that it has not been established that:

- services managed by the private sector are effective;
- and that they are accessible on an equal footing to all, without discrimination on the grounds of race, ethnic origin, religion, disability, age, sexual orientation or political opinion.