March 2022

EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

HUNGARY

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 Hungary, which ratified the Revised European Social Charter on 8 July 1999. The deadline for submitting the 17th report was 31 December 2020 and Hungary submitted it on 16 March 2021.

The Committee recalls that Hungary 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.

Comments on the 17th report by Amnesty International were registered on 1 July 2021.

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).

Hungary has accepted all provisions from the above-mentioned group except Articles 12§2, 12§3, 23 and 30.

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

The conclusions relating to Hungary concern 10 situations and are as follows:

– 1 conclusion of conformity: Article 3§1;

– 6 conclusions of non-conformity: Articles 3§2, 3§3, 11§1, 12§1, 13§1 and 14§1.

In respect of the other 3 situations related to Articles 11§2, 11§3 and 14§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 Hungary under the Revised Charter.

The next report from Hungary 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 Hungary.

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

In its previous conclusion, the Committee found that the situation in Hungary was in conformity with Article 3§1 of the Charter (Conclusions 2017). It will therefore restrict its consideration to the Government's replies to the targeted questions.

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

General objective of the policy

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

The Committee previously requested that the next report provide information on the content and results of the national programme on occupational health and safety – the National Occupational Safety and Health Policy (MNP) strategy – set out for the period 2016-2022 (Conclusions 2017).

In reply to these questions, the report explains that the MNP defines the priorities of domestic OSH for 2016-2022 and sets out the following five main tasks:

1. Developing the competitiveness of enterprises, by supporting introduction of free online tools to be used to carry out occupational safety and health tasks, encouraging the development of an effective occupational safety and health management system, communicating good practices and promoting their implementation and developing an accident insurance concept within the social security framework.
2. Maintaining the working capacity of employees. The MNP states that the development of methods to reduce absence at work due to psychosocial risks should ultimately lead to a reduction in the number of accidents at work and occupational diseases. As part of this task, sector-specific summaries of psychosocial risks concerning workplace stress for those working in education, as well as a methodological guide to assess risk and workplace psychological stress in the electrical equipment manufacturing sector have been published. The report also cites the publication of guides on developing ergonomic methods for the manufacture of computer, electronic and optical products, and electrical equipment.
3. Training and education on occupational health and safety. The report states that the Labour Safety Act has authorised the development of the system and database of compulsory in-service training for occupational health and safety professionals, described in paragraphs 3.1 and 5.4 of the MNP. The technical specification of the system and database has been completed and a government

decree concerning its regulation is currently being prepared. The report also states that the aim of the task of extending knowledge about occupational safety and chemical safety at workplaces in the field of education is to develop a prevention-conscious approach, so that the basic materials for occupational safety training and education are drawn up by sector and also by occupation within each sector. The report adds that the objective of reducing occupational risks for employees belonging to vulnerable groups and those involved in atypical forms of employment has been implemented by compiling and disseminating knowledge to targeted employers within the framework of the GINOP-5.3.7-VEKOP-17 priority project.

4. Providing regular, relevant, and professional information to interested parties, primarily small and medium-sized enterprises and representatives of micro-enterprises, by operating a public information system on occupational safety and health. The report gives a detailed description of publications, brochures, guides and teaching aids by sector, as well as a detailed description on the information published on the website of the Ministry's Department of Occupational Safety concerning chemical safety at workplace.
5. Research and development on occupational safety by means of a comprehensive evaluation of all domestic legislation on OSH, with the aim of simplifying and ensuring consistency in the existing legislation and implementing international OSH standards in Hungary. The report lists the various legislative measures taken in this regard.

In its previous conclusion, the Committee reiterated its request that the next report provide information on Hungary's activity in terms of research, knowledge and communication concerning psychosocial risks (Conclusion 2017).

The report states that even if the Labour Safety Act does not specify employee rights related to psycho-social risks, it does regulate the employee's entitlement in general. It also states that government agencies acting within the powers of the occupational safety and health authority examine the psychosocial pathogens affecting employees, the psychological stress in the workplace, and monitor compliance with employer obligations, *e.g.* by sending employees exposed to psychological strain and psycho-social pathogens for a medical examination regarding their suitability for work. According to the report, during inspections, officials also examine who is involved in the risk assessment, whether the employer has taken steps to eliminate or reduce the identified psychosocial risks on the basis of the assessment, and whether specific responsibilities and deadlines are defined in the action plan. The authority is empowered to take an administrative decision obliging the employer to rectify any deficiencies that might be identified in the inspections. In the same vein, the report also refers to the rules and the measures taken with regard to civil servants, professional staff of law enforcement agencies, professional staff defence agencies, and the OSH regulations for the employment of prisoners. The Committee refers to the report for a detailed description on the rules and measures in question.

The Committee notes that policy plans and strategies in Hungary are periodically assessed and reviewed, particularly in the light of changing and new emerging risks, which should lead to the identification of diseases at earlier stages and promote better recording of occupational diseases. In the light of the foregoing, the Committee considers that the situation in Hungary is in conformity with Article 3§1 of the Charter.

Organisation of occupational risk prevention

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

Improvement of occupational safety and health

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

Consultation with employers' and workers' organisations

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

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 takes note of the information contained in the report on measures relating to healthcare professionals. Blended distance learning programmes have been created to train doctors and nurses about theoretical and practical aspects at the appropriate level. According to the report, a significant chapter in the curriculum of these programmes concerns protection against coronavirus infection (hand hygiene, protection of the respiratory system, use of personal protective equipment, patient isolation, organisation of patient flows, cleaning and waste management). The report mentions the numbers of trainers and trainees, and shows that on-site training should take place in different facilities.

With reference to workers in the social sector, the report explains that all social institutions, regardless of who maintains them, received protective equipment for epidemiological control on a weekly basis from the central budget through the Directorate-General for Social Affairs and Child Protection. The report also states that the Minister of Human Capacities has issued guidelines for primary social and child welfare services, specialised social services and child protection services and correctional facilities to assist staff in their emergency procedures related to Covid-19 to be applied in the case of a state of danger.

The measures applicable to law enforcement agency staff contain rules on care and protection, information on general and personal hygiene, and general rules on the use of protective equipment. The report details the measures taken to procure the personal protective equipment and the measures taken to reorganise primary health and psychological care to decrease the risk of infection by reducing physical contact. The report also explains that separate rules of procedure were drawn up for each field (border policing, public order, criminal technology, etc.) in accordance with the tasks to be performed and the risk involved in their implementation.

The report lists measures taken in relation to prison staff and detainees, such as the organisation and implementation of epidemiological screening of staff and detainees; the regular screening of healthcare staff; the implementation of notification tests; hygiene measures; the establishment and operation of Covid-19 and post-Covid-19 departments; guaranteeing the transport of infected persons; and the development of procedures for the scheduled provision of vaccination and regular screening of healthcare staff. The report also details the quantity of PPE material used in penitentiary centres, the number of infections and the steps taken to enhance the protection of probation officers and prison probation officers. The report provides similar information with regard to measures applicable to disaster management staff and to police staff dealing with aliens.

The report details measures applicable to immigrants and asylum seekers, such as the possibility for applicants to submit their application electronically and the possibility of issuing a certificate entitling them to temporary residence. The report also mentions that the entry of asylum seekers into transit zones has been suspended. In the transit zones, visits between sectors were suspended and personal protective equipment was provided to persons placed

in the individual facility as required. The report details the measures adopted to deal with the virus outbreak.

The Committee notes that, during the second wave of coronavirus from 20 November 2020, persons employed in healthcare institutions, healthcare professionals, as well as other persons working in the healthcare field, persons undergoing residential training, persons undertaking education and training in educational, training and vocational training institutions, and persons working in social institutions and daycare centres have the opportunity to take regular samples on a voluntary basis for rapid antigen testing in a publicly funded context.

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

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

Conclusion

The Committee concludes that the situation in Hungary is in conformity with Article 3§1 of the Charter.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Safety and health regulations

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 3§2 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").

The Committee notes that it previously found the situation in Hungary not to be in conformity with Article 3§2 of the Charter on the ground that self-employed and domestic workers as well as other categories of workers were not protected by occupational health and safety regulations (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 question.

Content of the regulations on health and safety at work

In its previous conclusions, the Committee pointed out that regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships and asked for information on this issue (Conclusions 2013 and Conclusions 2017).

The report states that the amendment to the Labour Safety Act, that came into force on 1 January 2008, introduced the employer's obligation of dealing with psychosocial risk factors. Furthermore, although there is no legislation on mobbing in Hungary, the Labour Code prohibits discrimination. In addition, the Equal Treatment Act defines the concepts of equal treatment and direct and indirect discrimination and lists the groups that are considered to be particularly vulnerable. The report further states different rules related to psychosocial risks applicable to different categories of workers, such as members of the law enforcement agencies, penitentiary staff, members of the professional disaster management body, police staff.

The report describes changes in legislation during the reference period. For example, amendment to the Labour Code of 2018 states that workers have to be employed for work that is not harmful to their physical conditions or development. The employer is obliged to amend the working conditions and working hours accordingly. Also, there were some changes in Hungary in respect of pregnant and breastfeeding women, and the report states that the employer has an obligation to change working conditions and/or working hours before transferring such workers to another job and if it is not possible to employ a worker in accordance with her state of health, such worker should be exempted from work. Also, in 2016 the Labour Safety Act was amended and resulting in the obligation to hold the election of an occupational safety representative now applying to more than 99 per cent small and medium-sized enterprises. Also, legislation concerning classification, labelling and packaging of substances and mixtures as well as chemical safety of workplaces was amended and new legislation on the minimum level of safety and health requirements for the use of work equipment was adopted. The report also states that all these regulations and measures for the elimination of psychological stress and psychosocial risks also apply to workers employed in the framework of organised work. The report further lists the examples of organised work.

In its targeted question on Article 3§2, the Committee asked for information on regulations adopted to improve health and safety in evolving new situations such as in the digital and platform economy by, for example, strictly limiting and regulating electronic monitoring of

workers, by recognising a right to disconnect, right to be unavailable outside agreed working and standby time, mandatory digital disconnection from the work environment during rest periods. It also requested information on regulations adopted in response to emerging occupational risks.

The report provides no information requested. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Hungary is in conformity with Article 3§2 of the Charter on this point.

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

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

States Parties should ensure there is a legal right not to be penalised or discriminated against for refusing to undertake work outside normal working hours. States must also ensure that there is a legal right to protection from victimisation for complaining when an employer expressly or implicitly requires work to be carried out outside working hours. States Parties must ensure that employers have a duty to put in place arrangements to limit or discourage unaccounted for out-of-hours work, especially for categories of workers who may feel pressed to overperform (e.g. those during probationary periods or for those on temporary or precarious contracts).

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

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

Establishment, alteration and upkeep of workplaces

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

The report provides information on the transposition into national law of Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EC) and repealing Directive 2004/40/EC. The report states that the Directive was transposed by the Decree of the Minister of Human Capacities No. 33/2016.

Protection against hazardous substances and agents

The Committee previously asked the next report to provide information on the specific provisions relating to the protection of risks of exposure to benzene. With regard to asbestos, it asked whether authorities have considered drawing up an inventory of all contaminated buildings and materials. With regard to ionising radiation, the Committee also sought confirmation that workers were protected up to a level at least equivalent to that set

in the Recommendations by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) (Conclusions 2017).

The report states, with regard to benzene, that benzene is a carcinogen and that the use of a carcinogen can only be introduced if it cannot be replaced by an identical, non-carcinogenic or less potent carcinogen for technical reasons. If there is non-carcinogenic or less carcinogenic substance, the employer must also indicate why these substances were not used and why the carcinogens were not substituted with them. The report also describes the provisions on prevention of the release of benzene vapours in the air of the workplace and states that the value of the maximum permitted concentration of benzene in the workplace is 3 milligrams in cubic meter. Workers who may come into contact with liquid benzene or some material containing liquid benzene must be provided with appropriate personal protective equipment to prevent absorption through the skin. Workers exposed to benzene must undergo a pre-employment medical aptitude test and a periodic test every six months. It is forbidden to employ pregnant women under the exposure of carcinogens and minors can only be employed with personal protective equipment and only for the time and to the extent necessary for practical training.

With regard to asbestos, the report provides information on the number of asbestos removal activities and the number of employees affected and the proportion of incomplete reports. The report states that personal protective equipment was provided to workers engaged specifically in asbestos removal. Employers specialising in asbestos removal prepare the demolition plan.

With regard to ionising radiation, the report states that the Recommendations of the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) have been integrated into Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, which Hungary transposed into national law.

Personal scope of the regulations

The Committee previously concluded that domestic workers and self-employed persons were not covered by occupational health and safety legislation and asked how other categories of “workers”, such as those in Government service, judges, were protected against occupational risks and hazards (Conclusions 2017).

The Committee notes that the representative of the Government informed the Governmental Committee that domestic and self-employed workers were covered if they benefited from an organised form of employment and stated that only a small group of domestic workers were not covered by the Occupational Health and Safety Act. The Government was invited by the Governmental Committee to provide clear and precise information in the next report and to bring the situation into line with Article 3§2 of the Charter.

The report states that occupational health and safety legislation must be applied in a comprehensive manner to those employed in the context of organised work, regardless of the organisational or ownership form. The scope of occupational health and safety regulations also extends to all domestic workers employed in the framework of organised work, with the exception of simplified employment in the household of the natural person‘s employer. The report provides no information with regard to the self-employed.

The Committee reiterates that for the purposes of Article 3§2 of the Charter, all workers, including the self-employed, must be covered by health and safety at work regulations on the ground that employed and self-employed workers are normally exposed to the same risks. The Committee therefore reiterates its previous conclusion that the situation is not in conformity with the Charter as domestic workers and the self-employed are not covered by occupational health and safety regulations.

Consultation with employers' and workers' organisations

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017).

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 3§2 of the Charter on the ground that domestic workers and the self-employed are not covered by occupational health and safety regulations.

Article 3 - Right to safe and healthy working conditions

Paragraph 3 - Enforcement of safety and health regulations

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

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.

Previously, the Committee deferred its conclusion pending receipt of the information requested (Conclusions 2017).

Assessment of the Committee will therefore concern the information provided by the Government in response to the deferral and to the targeted questions.

Accidents at work and occupational diseases

The Committee previously examined the situation regarding accidents at work and occupational diseases (Conclusions 2017). It requested information on the concept of occupational diseases, mechanisms for recognizing, reviewing and revising of occupational diseases (or the list of occupational diseases, the incidence rate and the number of recognised and reported occupational diseases during the reference period, broken down by sector of activity and year), including cases of fatal occupational diseases and the measures taken and/or envisaged to counter insufficiency in the recognition and declaration of cases of occupational diseases, the most frequent occupational diseases during the reference period, as well as the preventive measures taken or envisaged. Pending receipt of this information, the Committee reserved its position on these issues and deferred its conclusions. In its targeted question on Article 3§3 with regard to accidents at work and occupational diseases, the Committee asked for information on statistical data on prevalence of work-related death, injury and disability including as regards suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders, as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs (e.g. cycle delivery services, including those employed or whose work is managed through digital platform; performers in the sports entertainment industry, including in particular contact sports; jobs involving particular forms of interaction with clients and expected to use potentially harmful substances such as alcohol or other psychoactive products; new forms of high-yield high-stress trading; military and law enforcement; etc.) and also as regards the victims of harassment at work and poor management.

The report indicates that the Decree of the Minister of Welfare 27/1996 on the Reporting and Investigation of Occupational Diseases defines occupational disease as acute and chronic health impairment occurring during work or during the exercise of an occupation, and chronic health impairment developing after the exercise of an occupation. Occupational diseases are characterized by categorization according to pathogen groups as follows: chemical pathogens; physical pathogens; biological pathogens, non-optimal use, psycho-social, ergonomic pathogens.

The report states that if it is suspected that the occupation played a role in the development of the illness, the detecting physician must report the suspicion of an occupational disease to the occupational safety and health authority of the county government office responsible for the workplace. The investigation is performed by the occupational safety and health authority. The investigation reports are forwarded to the occupational hygiene and health agency which assesses the completeness and validity of the application in view of the payment of sickness benefits. The report also indicates that in case of employer's failure to

investigate or report an occupational disease, the employee may apply to the territorially competent occupational safety and health authority.

The number of registered cases of occupational diseases was 245 in 2016,recorded in the manufacturing sector, followed by human health and social services and mining sector.

The Committee reiterates its request (Conclusions 2017) for information on the incidence rate of reported occupational diseases. Moreover, it also requests information on the number of accidents at work and fatal accidents at work for each year of the reference period broken down by sector and incidence rates in respect of such accidents. The Committee also asks for information on the most frequent accidents at work and the preventive measures taken or envisaged to prevent them.

Pending receipt of this information, the Committee considers that there is nothing to establish that the situation is in conformity in Hungary with respect to Article 3§3 in this regard.

Activities of the Labour Inspectorate

The Committee previously examined the activities of the Labour Inspectorate and deferred its conclusions in this respect (Conclusions 2017). It requested information concerning measures to focus labour inspections on small and medium sized enterprises (SME).The targeted question with regard to accidents at work concerned the organisation of the Labour Inspectorate, and the trends in resources allocated to labour inspection services, including human resources; number of health and safety inspection visits by the Labour Inspectorate and the proportion of workers and companies covered by the inspections as well as the number of breaches to health and safety regulations and the nature and type of sanctions; whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors.

In reply, the report explains that occupational health and safety is defined in the Hungarian legal system as a fundamental human right according to which employees in SMEs must be provided with working conditions that do not endanger their safety and health and that ensures the prevention of accidents at work and occupational diseases in order to maintain and develop their ability to work. The occupational safety and health authority conducts inspections in SMEs to enforce compliance with the legal requirements applicable to the employer: it can oblige the employer to eliminate the identified deficiencies within a specified period of time and order the suspension of the use of the dangerous activity or work equipment until the danger is eliminated. The occupational safety and health authority shall impose an administrative fine on an SME employer who, in the course of organised, work violates the rules for the healthy performance of work, fails to fulfil the obligation to register, investigate, record and report in connection with an accident at work in time, provides false information or conceals the real cause of accidents, fails to provide information related to cases of occupational diseases or prevents their investigation.

In cases where an infringement is detected at an SME for the first time, provided that there is no imminent threat to human life or health, the occupational safety and health authority issues a warning instead of imposing a fine. The 2011 amendments to the Labour Safety Act reduced the administrative burdens on SMEs by requiring employers to perform risk assessment and risk management and to define preventive measures at least every 3 years. In addition, the professional management body of the occupational safety and health authority has published on its website a general guide for performing a risk assessment at the workplace, which primarily helps SMEs to become familiar with the risk assessment system, to apply the relevant legislation correctly and to practice preparing and perform risk assessment.

The report indicates that the average number of occupational safety inspectors was 102 in 2016, 95 in 2017, 97 in 2018 and 89 in 2019. There is a downward trend concerning the

number of inspected employers (from 15,459 in 2016 to 12,784 in 2019) and the number of inspected employees (from 281,486 in 2016 to 188,337 in 2019). There is also a downward trend in the number of employees being affected with irregularities (from 186,022 in 2016 to 125,058 in 2019) although those figures remain extremely high.

The report also indicates that the Labour Safety Act and its implementing decrees apply in the context of all work performed in all workplaces. The Labour Safety Act does not differentiate with regard to the fulfilment of occupational safety requirements on the basis of the organisational or ownership forms of individual enterprises.

However the report does not provide information on the percentage of workers covered by inspection visits each year and in each sector of activity, nor on the budget of the Labour Inspectorate. The Committee therefore requests that the next report provide information in these respects. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Hungary is in conformity with Article 3§3 of the Charter. Moreover, the Committee asks that the next report provide information on administrative measures that labour inspectors are entitled to take and, for each category, the number of such measures actually taken; the outcome of cases referred to the prosecution authorities with a view to initiating criminal proceedings. The Committee also asks that the authorities provide information on any change in the general framework for labour inspection activities during the reference period and measures taken with a view to maintaining the professional capacity of the inspectors.

Pending receipt of the information requested, the Committee defers its conclusions in this respect.

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 3§3 of the Charter on the ground that it has not been established that accidents at work and occupational diseases are monitored effectively.

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

Article 11 - Right to protection of health

Paragraph 1 - Removal of the causes of ill-health

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

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 Hungary was not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce maternal mortality rates had been insufficient (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

The Committee notes that in its previous conclusion it considered that the situation in Hungary was not in conformity with the Charter because the measures taken to reduce maternal mortality rates had been insufficient (Conclusions 2017).

The Committee notes that the representative of the Government informed the Governmental Committee that according to the data provided by the Hungarian Central Statistical Office, the maternal mortality rate was lower than the figures in the World Bank data and stated that updated figures would be provided in the next report.

The report provides no information on maternal mortality. According to World Bank data, in 2017 maternal mortality rate per 100,000 live births was 12. The Committee notes that no information on measures taken to reduce maternal mortality rates has been provided and the maternal mortality rate remains high (well above the average in the European Union where the maternal mortality rate per 100,000 live births was 6 in 2017). In view of that, the Committee reiterates its conclusion of non-conformity.

In its 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.).

In reply to the Committee’s targeted question on statistical data on life expectancy across the country and different population groups, the report provides statistical information on the average life expectancy in Hungary. According to the report, in 2019 life expectancy at birth was 76.16 years (average) (for example, the EU-27 average of 81.3 in 2019), which is an increase in comparison with 2015, when it was 75.6, according to World Bank data. Also, according to World Bank data, life expectancy at birth in 2019 was 79.3 years for women (79 years in 2015) and 72.9 years for men (72.3 years in 2015). According to World Bank data,

the death rate in Hungary decreased slightly per 1,000 inhabitants from 13.4 in 2015 to 13.3 in 2019. The report states that there is no data on the distribution of life expectancy at birth by ethnicity and occupation. The Committee recalls that the gathering and analysis of statistical data (with due safeguards for privacy and against other abuses) is indispensable for the formulation of a rational policy aiming at the protection of particularly vulnerable groups or at reducing a particular phenomenon (see, *mutatis mutandis,* ERRC v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23; ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27; Conclusions 2005, France, Article 31§2, p.268). Therefore the Committee asks again information on statistical data across ethnic groups.

The Committee notes that there is a substantial gender gap, with women expected to live almost than 7 years longer than men. The Committee also notes that according to the report *Hungary: Country Health Profile 2019* (OECD, the European Observatory on Health Systems and Policies and the European Commission), inequalities in life expectancy exist not only by gender but also by level of education. The life expectancy of the least educated men is 12 years shorter than that of the most educated, while for women the difference is over 6 years. It is estimated that more than half of all deaths in Hungary are attributable to behavioural risk factors, including dietary habits, tobacco smoking, alcohol consumption and low levels of physical activity.

The report does not provide information on life expectancy across distinct ethnic groups and minorities, longer term homeless or unemployed, as well as information on prevalence of particular diseases among relevant groups, such as new cases HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison, thus the Committee reiterates this request for information.

Access to healthcare

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

The report provides information on infant mortality. The infant mortality rate decreased from 4.2 in 2015 to 3.8 in 2019 (infant mortality rate per 1,000 live births was 3.4 in 2019 in the EU).

The report provides information about breast and cervical screening and states that the Government introduced voluntary vaccination of adolescent girls against Human papilloma virus. However, the report provides no information about sexual and reproductive healthcare services for women and girls, including on the measures taken to ensure that women and girls have access to modern contraception. The Committee asks the next report to provide this information. 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 provides no information on abortion. From other sources it appears that surgical abortion can be performed up to 12th week of pregnancy and that two mandatory appointments at least three days apart are mandatory with the family services. It also appears that the cost of abortion is not reimbursed by the State except in certain cases. The Committee thus asks the next report to provide information on access to abortion, the costs of abortion and whether they are reimbursed by the State in total or in part.

The report provides no information on early motherhood, thus the Committee reiterates its request to provide statistical information about early (underage or minor) motherhood.

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

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

The Committee recalls that state recognition of a person's gender identity is itself a right recognised by international human rights law, including in the jurisprudence of the European Court of Human Rights, and is important to guaranteeing the full enjoyment of all human rights. It also recalls that any medical treatment without free informed consent (subject to strict exceptions) cannot be compatible with physical integrity or with the right to protection of health. Guaranteeing free consent is fundamental to the enjoyment of the right to health, and is integral to autonomy and human dignity and the obligation to protect the right to health (Transgender Europe and ILGA Europe v. Czech Republic, op. cit., §§78 and 82).

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

In its targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). The report does not provide any information in this sense. The Committee asks that information be provided in the next report on the measures taken to ensure informed consent to health-related interventions or treatment.

The report provides information on the implementation of the healthcare reforms implemented during the reference period, which lead to an increase of remuneration of various health professionals, development of family practitioners in small settlements, launch of the hospital development programme. The report also states that the levels of obesity stopped growing in Hungary and that the Government's public health measures, especially nutritional health measures had a significant effect. Also, a programme has been launched to promote physical activity in schools.

The report contains information on access to mental healthcare, rates of mental disorders and recovery measures. It states that the National Mental health Programme aims to develop health services for mental disorders, to reorganise Hungarian psychiatric and social care, and to establish a progressive and coordinated care based on the principle of subsidiarity.

The report further states that significant measures have been taken to reduce waiting lists and waiting times for various procedures, additional resources have been allocated towards it.

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).

The report provides information on the expansion of capacities of hospitals to treat Covid-19 patients. The report states that only emergency procedures and interventions were performed in hospitals and the issue of telemedicine became a priority.

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 Hungary is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce maternal mortality rates have been insufficient.

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 Hungary.

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

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

Education and awareness raising

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

In reply to the targeted question, the report refers to the workshop organised on 25 September 2019 by the World Health Organisation (WHO) in cooperation with the Minister of Human Capacities. This workshop aims at establishing and launching the Hungarian Public Health Partnership and improving the health of the population. The report also describes in detail the aims of the Buda Area Health Programme, a national and international model programme launched in January 2019. It was implemented by the National Korányi Pulmonology Institute and the Buda Area Municipal Association in cooperation with the Ministry of Human Capacities, other professional institutions, partners, and the WHO. The Committee asks for information in the next report on how the Hungarian Public Health Partnership and the Buda Area Health Programme have been implemented and their results.

Regarding health education and related prevention strategies in schools, the report gives detailed information on how the National Core Curriculum, the framework curricula, and the local curriculum cover topics such as smoking and drug prevention, sexual and reproductive education (in particular sexually transmitted diseases and AIDS), road safety, and healthy eating. The report refers to the Recommendation on the health promotion programmes of 19 April 2019. The report also refers to a two-year project jointly proposed by the WHO and the Minister of Human Capacities, launched at the end of 2019, the topic of which is the implementation of a complex public health development project to improve children's health. The Committee asks for updated information on the implementation of this project in the next report.

The Committee notes the detailed information provided on the health preservation training of pedagogues and teachers, and on their role in education on physical and mental health, and family life. The Committee also takes note of the information on curriculum requirements on human nature and education.

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

Counselling and screening

In its previous conclusions, the Committee noted that screening for breast, cervical, colon and prostate cancers was available (Conclusions 2009) as was screening for the new-borns, from 0 to 6 years of age (Conclusions 2013) and screening for breast, cervical and large intestine cancers (Conclusions 2017).

The report indicates that as part of the expansion of the scope of organised screening, the nationwide extension of organised colon and rectal screening began in 2018. In 2014, a pilot examination of low-dose multi-slice CT (LDCT) lung cancer screening (HUNCHEST Programme) started, coordinated by the National Korányi Institute of Pulmonology. According to the report, the goal is to achieve a participation rate of at least 70% of the population for each type of screening, in accordance with the international recommendation. The Committee takes note of detailed information on organised breast screening, cervical screening, targeted colon and rectal screening and LDCT screening. In addition, within the framework of the “We bring the test to you” programme, as a service close to home, 10 health promotion buses and 9 screening buses have been in operation since 2020 (outside the reference period). Within the framework of the "Converging settlements” programme, general health assessments, cardiology and gynaecology examinations were performed in settlements all around the country.

The Committee asks for updated information in the next report on the scope of the screening programmes for the main causes of death during the reference period, including the frequency of any such screening.

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 Hungary.

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 Hungary was in conformity with Article 11§3 of the Charter (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 provides information about the legislative framework regulating access to healthcare in prison, staffing arrangements, overall responsibility for prison healthcare, access to primary and specialist healthcare, screening arrangements on arrival and during imprisonment. Doctors assigned to each prison and designated inpatient facilities provide primary curative and preventive care. In case of needs, prisoners may receive healthcare in community-based facilities, based on rolling agreements with the prison service.

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 refers to mental health under Article 11§1 of the Charter, noting that one of the National Health Programmes adopted by the Government 2018 and applying for the period 2019-2021 focuses on mental health.

The Committee takes note of the findings of an international inquiry conducted by the Committee on the Rights of Persons with Disabilities (CRPD Committee) and concluding that Hungary was responsible for 'grave and systematic violations' of the CRPD on account of

the manner in which its deinstitutionalisation process was conducted. The inquiry report includes findings on the inaccessibility of most health-care facilities, the limited number of pharmacies, the few opportunities to receive mental health support outside of hospitals, the fact that the social insurance excludes psychotherapy, and the lack of awareness of disability among health-care professionals. The inquiry report further notes that persons with intellectual or psychosocial disabilities continue to be perceived as being "unfit" to live independently and to be included in the community, because of prevalent disability stereotypes. Medical and paternalistic models of disability prevail, legitimising institutionalisation for supposed medical, developmental, therapeutic and rehabilitation purposes.

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 information requested is not provided., namely with regard 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; to 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 reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Hungary is in conformity with Article 11§3 of the Charter

The Committee also asks for information on the measures taken with a view to raising awareness about the rights of persons with psychosocial disabilities – particularly their rights to equal recognition before the law and to live independently and be included in the community with equal choices to others – and to combat disability stereotypes, prejudices and misconceptions, also in the light of the findings from the CRPD inquiry.

Drug abuse prevention and harm reduction

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

The report notes that more established drugs, such as heroin or amphetamines, have recently been replaced by new psychoactive substances. This trend is associated with a slight increase in the number of drug-related deaths recorded during the reference period, from 29 deaths in 2016 to 32 in 2018. The report goes on to note that HIV prevalence among people who inject drugs was relatively low, but that Hepatitis C prevalence increased

markedly. The National Anti-Drug Strategy 2013-2020 emphasizes among others the importance of harm reduction activities in general, and in music and dance venues in particular. The option to suspend prosecution and pursue treatment is available in certain circumstances to offenders committing drug law offences involving small quantities of drugs. The report provides information about the number of individuals who benefited from this option. Methadone- and buprenorphine-based opiate substitution treatment is available.

Healthy environment

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

The report provides limited information about the generation and recycling of packaging waste, protection measures against radiation (including in the context of occupational exposure, dealt with under Article 3 of the Charter), licensing legislation for handling nuclear and other radioactive materials, and waste management. The report does not otherwise provide any information on air, water or industrial pollution, measures taken to address health problems of the population affected or access to environmental information.

The Committee notes that the European Semester report for 2020 found that air pollution was a major environmental challenge, causing 13,000 premature deaths. The European Commission also identified water quality as a source of concern, pointing out that less than 10% of Hungarian rivers and lakes have a good ecological status, and that water supply and sanitation was still not fully compliant with the Drinking Water Directive.

The Committee reiterates its request for information on the measures taken to prevent exposure to air, water or other forms of environmental pollution, to address health problems of the populations affected, and to ensure access to information about the environment. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Hungary is in conformity with Article 11§3 of the Charter.

Immunisation and epidemiological monitoring

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

The Committee notes that the information requested is not provided.

Covid-19

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

The report provides a detailed timeline of the preventive measures taken in response to the Covid-19 pandemic, including by mandating physical distancing and personal protective equipment (PPE) use, protecting vulnerable groups, planning to provide schooling online and restricting international traffic. In addition, the report describes the measures taken with a view to strengthening public IT infrastructure, systems and services, and ensuring effective public communication.

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

Conclusion

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

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

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

Risks covered, financing of benefits and personal coverage

The Committee refers to its previous conclusions (Conclusions 2013 and 2017) for a description of the Hungarian social security system, and notes that it continues to cover all the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity and survivors). The Committee takes note of the amendments introduced to the Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions during the reference period.

As regards personal coverage of healthcare, the Committee notes from MISSOC that it is a compulsory social insurance scheme for employees and self-employed, and assimilated groups, financed by employer and employee contributions. Persons not insured/not entitled to health care can enter into contractual arrangements with the National Institute of Health Insurance Fund Management *(Nemzeti Egészségbiztosítási Alapkezelő)* for entitlement to health care services. In case of adults, the contribution amounts to 50% of the minimum wage and in case of minors and students 30% of the minimum wage. The Committee asks what percentage of population is covered under the compulsory scheme.

As regards sickness benefit, the Committee notes from MISSOC that all employees and self-employed persons and assimilated groups are covered and there is a possibility of voluntary insurance for those not mandatorily insured. As regards old-age benefit, the Committee notes that all employees and self-employed persons are covered and there are no exemptions. As regards unemployment benefit, all employees, self-employed and assimilated groups are covered. Entitlement does not depend on citizenship, it depends on the fulfilment of jobseeker criteria.

The Committee recalls that, to be in conformity with Article 12§1 of the Charter, the social security system must cover a significant proportion of the active population as regards sickness benefits, maternity and unemployment benefits, pensions and employment injury and occupational disease benefits. The Committee accordingly asks that updated information on the personal coverage of income replacement benefits (percentage of persons insured out of the total active population) be provided in each report concerning Article 12 of the Charter.

Adequacy of the benefits

According to Eurostat data, the poverty level, defined as 50% of the median equivalised income, was €2,926 per year, or €244 per month. 40% of the median equivalised income corresponded to €195 monthly.

In its previous conclusion (Conclusions 2017), the Committee found that the minimum level of **old-age pension** was inadequate.

The Committee notes from the report in this regard that the minimum old-age pension is rarely applied in practice when setting pensions and those receiving low pensions do not form a homogenous group. In addition, for persons on a low pension, there is a possibility of an exceptional pension increase on equitable grounds and the payment of a one-off benefit. According to MISSOC the minimum amount of the social insurance old-age pension *(Öregségi nyugdíj)* was HUF28,500 (€88) per month in 2019. The Committee notes that this level falls below 40% of the median equivalised income and therefore, is manifestly inadequate and the situation is not in conformity with the Charter on this point.

As regards **unemployment** benefits, in its previous conclusion the Committee found that the amount of jobseeker's aid, which is granted to unemployed persons who have exhausted their entitlement to jobseeker's assistance (after receiving it for at least 45 days) and who will reach pensionable age within five years, was manifestly inadequate. The report does not provide any information regarding the minimum level of jobseeker's (pre-retirement) aid. The Committee has previously noted that it amounted to 40% of the minimum wage. The Committee asks whether this is still the case and reserves its position on this issue.

In its previous conclusion the Committee found that the duration of jobseeker's allowance, which was up to 90 days was too short. The Committee notes from the report in this regard that the support of registered job-seekers can be managed dynamically, primarily by supporting employment or by involving the persons concerned in active labour market instruments. As a result, the extension of the period of payment of unemployment benefit was not on the Government's agenda. The Committee recalls that, to be in conformity with Article 12 of the Charter, unemployment benefits must be payable for a reasonable duration (Conclusions 2006, Malta). The Committee notes that there is no change to this situation and therefore, it reiterates its previous finding of non-conformity on the ground that the duration of unemployment benefit is too short.

In its previous conclusion the Committee considered that minimum amounts of **disability** benefits, where the impairment was at least 70% were adequate. However, where the level of impairment was less than 70%, but the persons were not considered to be employable and their occupational rehabilitation was not recommended, the minimum level of benefit was only 30% to 45% of the minimum wage which fell below 40% of the median equivalised income and was therefore inadequate. The Committee notes that the report does not provide any information concerning the levels of invalidity benefits. It notes from MISSOC that the minimum amounts of disability benefit paid to persons who are incapable of self-sufficiency or need permanent assistance to take care of themselves stood at of 55% of the basic amount (i.e. HUF55,860 per month, or € 155). The Committee asks the next report to provide information about the minimum levels of disability or rehabilitation benefits paid to persons whose impairment level is such that does not recommend their occupational rehabilitation. In the meantime, the Committee reserves its position on this point.

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum amount of the old-age pension is inadequate;
- the maximum duration of payment of jobseeker's allowance is too short.

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 Hungary.

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 (of 2017) considered that the situation in Hungary 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, including elderly persons, is not adequate.

General legal framework, types of benefits and eligibility criteria

The Committee takes note of the large and detailed information provided in the report.

In the reference period, the basic amount of the care allowance as well as many other benefits have been revised, such as pensions for people with disabilities, pensions for those who cannot work or return to work fully after a health issue, the home care allowance for children, home building aid, etc. The Committee takes note of the amendments introduced during the reference period.

As regards the social assistance for the elderly, from 1 January 2017 and 1 January 2018, the amount of the old-age benefit increased by an average of 5% respectively in the two years. In 2018, in addition to the increase in the number of recipients of the benefit, the amount of the benefit also increased, as its rate increased in line with the rate of pension increase (after inflation). From 1 January 2019, the income limit for old-age benefits and the amount of benefits increased in line with the rate of the annual pension increase (2.7%).

As regards medical assistance, public health care is a contribution provided for socially disadvantaged persons to reduce their expenses in relation to the preservation and restoration of their health. The person holding the public health care card is entitled to receive certain services – as specified in separate legislation – covered by the social security scheme, free of charge. The Committee further notes that the medicine allowance consists of the individual medicine allowance for supporting regular medical needs. From 1 January 2018, the income threshold for normative public medical care increased by 5%. The number of recipients of public medical care has increased due to the raising of the income limit, as more people can be granted entitlement to the benefits.

Persons who doare not covered by insurance or are not eligible to health care services on other grounds may become entitled to them based on their social needs, such as a person whose family the monthly income per capita does not exceed 120% of the minimum old-age pension (150% of the minimum old-age pension in case of a person living alone) and the family has no property or assets.

The Committee had considered in its previous conclusion (2017) that in cases were the person who is a job seeker refuses employment or is unemployed for reasons attributable to them the allowance is withdrawn. The Committee had asked whether the benefit is eliminated in its entirety depriving the person concerned of his/her means of subsistence. The report states that entitlement for employment replacement allowance is reviewed annually. In some cases, the termination of the allowance is not the result of a "sanction", but based on the fact that the person has found a job. However, the provision of employment replacement allowance is subject to an obligation of cooperation, and in the case of non-compliance the entitlement the allowance is terminated. The Committee recalls that the establishment of a link between social assistance and a willingness to look for a job or undergo vocational training is in conformity with Article 13 §1, in so far as such conditions are reasonable and consistent with the objective pursued, namely that of finding a lasting solution to the individual's difficulties. Furthermore, the reduction or suspension of social assistance benefits can be in conformity with the Charter only if this does not deprive the person concerned of their means of subsistence (Interpretative statement of Article 13, General Introduction to Conclusions XIV-1, pp. 51-53; Conclusions XIV-1, France, p. 271-273; Conclusions 2006, Estonia). Furthermore, it must be possible to appeal against a decision to suspend or reduce assistance (Conclusions XIII-2, Denmark, p. 124-126; Conclusions XIV-1, France, p. 271-273). The Committee reiterates its questions whether the assistance is withdrawn in its entirety and whether the withdrawal of such assistance may amount to the deprivation of means of subsistence for the person concerned. The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the right to social assistance is effectively guaranteed

The Committee had also asked in its previous conclusion to confirm that the persons who pursue an income-earning activity may still be granted the allowance for persons of active age, provided that they still satisfy the means-test (e.g. have income from income-earning activity below 90% of minimum old-age pension). There are two types of allowance: health impairment and childcare allowance; and employment replacement allowance. According to Section 33 (1) of the Social Administration Act, care for persons of active age is a benefit provided to persons of active age, who are disadvantaged in the labour market, and their families. The district office determines the entitlement to care for persons of active age for an active age person under certain conditions. Pursuant to the above regulation, in the case of continuing gainful employment, the care for persons of active age according to the Social Administration Act cannot be provided.

Level of benefits

To assess the level of social assistance during the reference period, the Committee takes note of the following information:

- Basic benefit: The Committee notes from MISSOC that there are two types of cash benefits: employment substituting benefit (*foglalkoztatást helyettesíto támogatás*): fixed amount, equal to 80% of the minimum old-age pension (*öregségi nyugdíj minimum*), i.e. HUF 22,800 (€70) per monthon 1 January 2020 (this is the same amount compared to 2015). The second one is the benefit for people suffering from health problems or taking care of a child (*egészségkárosodási és gyermekfelülgyeleti támogatás*): the benefit depends on the income of the family. The amount is calculated on the basis of the "consumption unit", which shows the structure of the family. The monthly income of the family is supplemented to 95% (HUF27,075) (€76) of the minimum old-age pension per consumption unit on 1 January 2020 (reflecting the reference cycle between 2016 and 2019).
- As regards the old-age allowance *(Időskorúak járadéka)*, it stood on 1 January 2020 at HUF26,350 (€74) per month in case of an old-aged person with a spouse, HUF30,995 (€87) per month in case of a single person below 75 years of age and HUF41,840 (€117) per month in case of a single person above 75

years of age. The Committee further notes from the report that the average monthly amount of old-age allowance stood at HUF 27 362 (€ 86) in 2015.

- Additional benefits: the Committee takes note that no general housing scheme exists currently in Hungary. Local governments can provide financial aid to support housing costs in the form of the local benefit (*települési támogatás*). The forms, eligibility criteria and amount of allowances provided in the frame of local benefit is determined by the local governments. The decision seems left to the discretion of the local Government and therefore, is not guaranteed as a subjective right.
- The poverty level, defined as 50% of the Eurostat median equivalised income, was €244 per month in 2019.

In its previous conclusion the Committee held that the level of social assistance paid to a single person without resources, including the elderly, was manifestly inadequate as it was not compatible with the poverty threshold. The report reiterates that the changes introduced to the benefits system in the past few years have been driven by the ambition that all persons available for employment should earn their living through work instead of benefits, since employment is the most important tool for breaking out of poverty. The Government aims to make the opportunity of employment available to everyone.

The Committee notes, however, that the amount of social assistance that can be obtained by a single person without resources, including elderly persons, falls below the poverty threshold and therefore, is not adequate. The Committee reiterates it previous finding of non-conformity.

Right of appeal and legal aid

The Committee recalls that the right secured by Article 13§1 places an obligation on states "which they may be called on in court to honour". The review body might be an ordinary court or an administrative body, provided that it offers the following guarantees:

- it must be a body independent of the executive and of the parties. In deciding whether a body may be considered independent, the Committee looks at the manner of appointment of its members, the duration of their term of office and existing safeguards against outside pressures (rules governing removal of office, dismissal, instructions, qualifications required etc.);
- all unfavourable decisions concerning the granting and maintenance of assistance must be subject to appeal, including decisions to suspend or reduce assistance benefits, for example in the event of refusal by the person concerned to accept an offer of employment or training;
- the review body must have the power to judge the case on its merits, not merely on points of law. If this requirement concerning the scope of the appeal is not satisfied in the first instance, it must be satisfied at the subsequent level of review.

  In order to guarantee applicants the effective exercise of their right of appeal, legal aid must be provided.

In its previous conclusion, the Committee noted that it is the Government office in the capital or in the county that shall act, as an authority with competence to decide on an appeal, in administrative matters attributed, at first instance, to the district office, in accordance with the Social Act. Subsequent to the exhaustion of the right to appeal, judicial control may be proposed (Administrative and Labour Court). The Committee considered that eligibility conditions for allowances provided under the competence of the local Government are laid down in local Government decrees. Review of legality is exercised over the operation of local Governments by the county-based Government office. Therefore, for the benefits in question the review body does not have the power to judge the case of its merits but only on points of law. In this regard, the Committee asked to give further clarification. The report states that the benefits provided by the local government are provided under the conditions

set out in their local government decrees, and local governments are free to determine the types of benefits they provide and the conditions under which they are provided. If the decree grants discretionary powers to the competent person, the provision of benefits cannot be considered mandatory. On the basis of the information provided, the right to appeal does not fulfil the conditions laid down in the Charter and therefore the situation is not in conformity in this respect.

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

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing.

The Committee asked in Conclusions of 2017 whether there is a length of residence requirement before foreign nationals concerned become eligible for benefits. The report states that there is no period of stay requirements for the use of benefits based on social need for either asylum seekers or beneficiaries of international protection (refugee, protected, asylum seeker, admitted). The lack of income and financial resources does not in any way lead to the withdrawal or suspension of basic needs for asylum seekers and beneficiaries of international protection. From 1 January 2016, the personal scope of Social Administration Act extends to the following persons living in Hungary: a) Hungarian citizens; b) immigrants and settlers; c) stateless persons: d) persons recognised as refugees by the Hungarian authorities. With regard to extraordinary local government support, the scope of Social Administration Act also extends to citizens of the countries ratifying the European Social Charter who are legally residing in the territory of Hungary. The scope of the act extends to persons with the right of free movement and residence if, at the time of claiming the benefit, they exercise their right of free movement and residence for more than three months in the territory of Hungary and have a registered residence.

With regard to the old age pension, the scope of the Act covers third-country citizens holding a residence permit covered by Directive (EU) No. 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions for the entry and residence of a third-country citizen for the purposes of research, study, traineeship, voluntary service, student exchange programmes or educational projects, and au pair activities. In addition to the above, the scope of Child Protection Act covers: a) children, young adults of Hungarian citizenship residing in the territory of Hungary and, unless otherwise provided by an international treaty, children, young adults with a settled, immigrant and admitted status as well as recognised as refugees, protected or stateless persons by the Hungarian authorities and their parents; b) persons with the right of free movement and residence if, at the time of claiming the benefit, they exercise their right of free movement and residence for more than three months in the territory of Hungary and have a registered residence specified in the Act LXVI of 1992 on Keeping Records on the Personal Data and Addresses of Citizens; c) foreign children aged less than eighteen who have applied for asylum and entered the territory of Hungary unaccompanied by an adult responsible for their supervision by law or custom, or who have remained unaccompanied after entry, until they are placed under supervision by an adult responsible for them.

Therefore, benefits that can be paid under the Child Protection Act can also be provided to non-Hungarian citizens. There is a condition of 3 months stay in Hungary and sufficient resources available during their entire stay so that their stay does not become an overburden to the Hungarian system.

The Committee requests the next report to provide information on whether foreigners lawfully residing in Hungary can lose their residence permit if they do not have sufficient resources or whether this permit can be revoked.

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 Committee had previously asked whether the legislation and practice comply with these requirements. The Committee reiterates this question and states that If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter.

Medical and social assistance during the Covid-19 pandemic

The report does not refer to specific measures to comply with the right to social and medical assistance under the Covid-19 pandemic. The Committee asks the next report to provide information on social assistance and specific measures taken during the Covid-19 pandemic.

Conclusion

The Committee concludes that the situation in Hungary 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, including elderly persons, is not adequate.
- there is no right to appeal for certain benefits.

Article 13 - Right to social and medical assistance

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

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

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

Article 13 - Right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

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

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 Hungary, as well as the comments by the Amnesty International.

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.

In its previous conclusion, the Committee held that the situation was not in conformity with Article 14§1 of the Charter on the ground that equal access to social services was not guaranteed for lawfully resident nationals of all States Parties (Conclusions 2017).

The report provides that pursuant to the Social Administration Act, the social services are extended to Hungarian citizens, immigrants and settlers, stateless persons and persons recognised as refugees. The report explains that persons who are subject to free movement rules, i.e. EU/EEA nationals, are eligible for the social benefits and services if they have a registered place of residence and have been exercising their right of residence for a period exceeding three months. Moreover, persons having a special status such as refugees and stateless persons are entitled to social benefits and services without regard to any length of residence. The Committee notes that the situations has not changed in this respect, i.e. nationals of other States Parties (non-EU/EEA) who are lawfully resident, but without having a permanent residence permit, are entitled to social services in the meaning of Article 14 only to a limited extent and only in emergency situations where life and physical integrity are at stake. Recalling that lawfully resident nationals of all States Parties must be treated on an equal footing with nationals, the Committee concludes that the situation remains not in conformity with Article 14§1 of the Charter.

In its previous conclusion, the Committee reserved its position as regards protection of personal data in the context of the use of social services. The report provides the necessary explanations, stating that pursuant to Section 20/C of the Social Administration Act, the Central Electronic Register of Service Recipients is the social security number central register of the data of the recipients. The data from the register can only be provided to the body entitled to request data, i.e., to the directorates of the Hungarian State Treasury and to the bodies licensing the operation, solely within within the scope necessary for the exercise of rights. Pursuant to the 2011 Act on the Right of Informational Self-Determination and on Freedom of Information, a data protection officer shall be appointed in all cases where the data processing is performed by public authorities or other bodies performing public tasks. Organisations performing social tasks comply with this item, so in their case the appointment of a data protection officer is necessary, in addition, they are obliged to create data protection regulations in order to enforce the fundamental rights of those concerned.

The Committee acknowledges information submitted in reply to its previous questions (see Conclusions 2017) the system of social and child welfare benefits providing personal care, as well as on implementation of the 2012-2015 reforms, such as the reform of the Child Protection Act, reforms introducing foster parent legal relationship, subsidies housing for people with disabilities and psychiatric disorders.

In reply to the Committee's targeted questions, the report provides that the operating and service provision of day care institutions changed during the state of emergency introduced due to the COVID-19 pandemic. Services provided in day care facility building were suspended, however, the operation of day care institutions did not cease; the activity was modified in order to prevent the spread of the epidemic. In the institutions providing specialised social care, with the exception of night shelters, temporary accommodation and external accommodation for the homeless, a ban on visits and leaving institutions and an admission stop has been introduced.

The Government Decree 88/2020 of 5 April 2020 on Certain Measures Relating to Social and Child Protection Services during the State of Danger and the Order of Operation of Social Services during the State of Danger contained temporary measures regarding social services in order to ensure the avoidance of personal contact and to protect the health of those living in social and child protection institutions (i.e. the administration was simplified, including extension of validity of previous decisions; the number of admitted recipients, the number of places and the task index could be exceeded). In order to ensure the continuous operation of social and child protection service providers and institutions, employees who were exempted from work could be redirected.

The report does not contain information on any specific measures taken in anticipation of future crises of such nature.

Conclusion

The Committee concludes that the situation in Hungary is not in conformity with Article 14§1 of the Charter on the ground that equal access to social services is not guaranteed to nationals of all States Parties lawfully residing on Hungarian territory.

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 Hungary.

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

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

The report provides an example of users involvement in provision of subsidised housing, where service providers work with users along the lines of certain principles. Subsidised housing creates the right conditions for people with disabilities, psychiatric and addiction issues to receive housing and social services appropriate to their age, state of health and ability to support themselves, instead of receiving residential care. The service is based on a complex needs assessment of the users, which enables care to be tailored as much as possible to individual needs, and also includes the mapping of the individual's desires and volition.

The provided example does not, however, enable the Committee to make a comprehensive assessment of the situation from the angle of all Article 14§2 requirements. Therefore, it requests that the next report provide full information on user involvement in social services, in particular, how the user involvement is fostered in legislation and other decision-making, and whether any practical measures to support it, including budgetary, have been adopted or envisaged.

The Committee acknowledges the information provided in response to its previous questions (see Conclusions 2017) on the requirements to be met in order for an organisation to be registered as a social service provider, on the practical operation of the system of funding private social services providers, as well as on the system of control in terms of prevention and redress, used to monitor the quality of services and to guarantee the rights of users.

Conclusion

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