March 2022

EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

LITHUANIA

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 Lithuania, which ratified the Revised European Social Charter on 29 June 2001. The deadline for submitting the 18th report was 31 December 2020 and Lithuania submitted it on 9 April 2021.

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

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

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

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

Lithuania has accepted all provisions from the above-mentioned group except Articles 12§2, 13§4, 23 and 30.

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

The conclusions relating to Lithuania concern 13 situations and are as follows:

– 5 conclusions of conformity: Articles 3§1, 11§2, 11§3, 12§3 and 14§1;

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

In respect of the other 5 situations related to Articles 3§2, 3§4, 12§1, 12§4 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 Lithuania under the Revised Charter.

The next report from Lithuania 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 Lithuania.

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

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

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

General objective of the policy

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

The Committee previously asked the Government to comment in the next report on the renewal of the Strategy on Health and Safety at Work for 2009-2012 and to provide full, up-to-date information on changes in the legislation and regulations during the reference period (Conclusions 2017).

In reply to the Committee's questions, the report indicates that the National Action Plan on Health and Safety at Work for 2017–2021 was approved by the Republic of Lithuania's Minister of Social Security and Labour and Minister of Health by the Order of 22 May 2017 No A1-256/V-584. The purpose of this plan is to implement the health and safety at work (HSW) policies at a national level, promote interest in HSW as a component of good governance and a key factor in increasing productive efficiency and competitiveness, as well as to ensure HSW so that working conditions are improved. The report further indicates that, with the aim of improving the implementation of HSW regulations in businesses, in particular micro- and small enterprises, eight online interactive risk assessment (OiRA) tools were developed for specific sectors. The report also details the guides and awareness raising campaigns, training and exchanges of best practices that were provided for businesses.

With regard to construction sites, the report mentions that training sessions for inspectors of the State Labour Inspectorate were organised, and consistent monitoring of compliance with HSW regulations on construction sites of enterprises engaged in construction works, ensuring the prevention of falls from a height (during site inspections, special questionnaires aimed at preventing falls from a height were used and information to social partners provided) was implemented in the 2018-2019 period and foreseen for the 2019-2021 period.

The Committee previously noted that Lithuanian regulations mention the obligation to take psychosocial risks into account, and provide a definition of what is meant by psychosocial risks or stress and what has to be included in a risk assessment to ensure the proper

prevention of poor mental health (Conclusions 2017). The Committee invited the Government to comment on this observation in the next report.

In reply to the Committee's question, the report states that Order V-590 of the Minister of Health of the Republic of Lithuania of 17 May 2019, on the approval of the description of the procedure for strengthening the mental health skills of workers, is aimed at developing skills of workers in enterprises and their representatives (division heads), the occupational safety and health professionals (occupational health specialists, occupational safety and health specialists), heads of HR departments and other enterprise workers (hereinafter – workers) to reduce the negative impact of psychosocial risk factors on workers' health, improve the psychosocial environment in enterprises and strengthen their mental health.

The report also states that Order No V-699/A1-241 of the Republic of Lithuania's Minister of Health Minister of Social Security and Labour of 24 August 2005, on the approval of the methodological guidance for the investigation of psychosocial occupational risk factors, was updated on 1 May 2019 regarding the requirements and qualification standards for persons conducting this investigation. The report also mentions that, according to the General Provisions for Assessing Occupational Risks, valid since 1 May 2018, employers must revise and repeatedly perform evaluations of occupational risk assessment.

The Committee notes the existence of a policy the aim of which is to foster and maintain a culture of prevention in occupational safety and health at work. The Committee further notes that policy plans and strategies in Lithuania are periodically assessed and reviewed, particularly in the light of changing risks and psychosocial risks, which should make it possible to identify diseases at earlier stages and promote better recording of occupational diseases.

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.

In response to the targeted question related to Covid-19, the report states that Paragraph 1 of Article 11 of the Law on Safety and Health at Work establishes the duty of the employer to create a safe and healthy work environment for employees. The report states that, under this regime, the employer must provide the employees with personal protective equipment (PPE) at their own expense and implement other organisational measures, such as managing numbers of employees, visitors, third parties in the premises, etc., organisation of remote working, ventilation, cleaning, disinfection, etc. to ensure safe work during the Covid-19 pandemic. In the same vein, the report states that recommendations for enterprises in various sectors of activities were provided to help the address SARS-CoV-2 and the risk of

developing Covid-19. The report emphasises that the State Labour Inspectorate prepared and published on its website 13 recommendations relating to different sectors, including health-care staff, staff in social-care facilities and for essential transport and retail services.

The report details the measures adopted by the General Commissioner of Police regarding the employees of the Lithuanian Police, which concern instructions on safety, limiting the exposure of officers and the public, physical distancing, remote work, providing PPE and information on hygiene, and Covid-19 testing in the medical centre of the Ministry of the Interior. The police reserve was planned, and different operation scenarios were prepared to ensure safety and continuity of law enforcement functions.

The report states that a circular was released in January 2020 with information and guidelines about the Covid-19 infection for the employees of the Public Security Service (PSS), before the first case testing positive for Covid-19 was officially recorded in Lithuania. The report further states that the PSS premises are sanitised daily by applying disinfectants used in medical institutions for the prevention of infections.

According to the report, remote training courses on the use of protection were organised for the officers of State Border Guard Service (SGBS). Moreover, both officers and civilian employees were provided with PPE as required.

The report adds that the Fire and Rescue Department developed algorithms for actions to be performed during pandemic tasks; prepared memos for its staff on how to protect themselves from Covid-19 and what to do if they experienced symptoms of illness; and provided its employees with disposable PPE.

The report explains that the recommendation for healthcare sector workers was to ensure maximum health and safety at all levels, by flagging up the importance of applying/using collective, technical, organisational and personal protective measures all together during routine procedures. The report details the technical protection measures proposed, such as planning of routine medical procedures, separating rooms, ventilation, filtration means and sterilisation measures. The report further details the measures proposed regarding the standard and additional isolation measures to be applied to a patient with Covid-19 or suspected of having Covid-19. In addition, the abovementioned recommendation states that a manual on infection control procedures must be prepared for each healthcare facility and continuously revised and supervised, taking into account the quality of healthcare services provided, procedures performed, available (used) medical devices and cleaning, disinfection, sterilization measures and equipment, and ensuring a safe working environment. The report also states that the Minister of Health has approved a list of employee groups identified as having a higher risk of developing critical illness, hospitalisation, severe complications or death related to Covid-19 infection in order to prevent healthcare professionals included on that list from working with patients diagnosed with Covid-19.

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

The Committee stresses 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 Lithuania 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 Lithuania.

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 the previous conclusion was of conformity (Conclusions 2017). The assessment of the Committee will therefore only concern the information provided by the Government in response to the targeted question.

Content of the regulations on health and safety at work

The Committee previously examined the situation regarding safety and health regulations at work. It pointed out that regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, especially for workers under atypical working relationships. The Committee asked for this information to be provided (Conclusions 2017).

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.

In response, the report indicates that in order to help identify investigation process of the psychosocial risk factors to the changing working conditions and to simplify the provisions in order to help small and medium enterprises to investigate such risks Regulations on investigation of psychosocial occupational risks were changed by the order No. V-153/A1-77 of the Minister of Health and the Minister of Social Security and Labour of 5 February 2019. Also, the report indicates that on 1 May 2019 the Minister of Health adopted the order No. V-590 which relates to improving competencies of workers' mental health and which is directed towards reducing the impact of stress at work to the workers' health. The report also indicates that in 2020 national mental health website Self-help was launched and that a new order of the Minister of Health was adopted. The Committee notes that this information falls outside of the reference period for the present reporting cycle.

The Committee notes that insufficient information is provided in reply to the targeted question. 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 Lithuania 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).

Protection against hazardous substances and agents

The Committee previously found the situation to be in conformity in this respect (Conclusions 2017). Nevertheless, the Committee asked whether the Lithuanian authorities considered drawing up an inventory of all buildings and materials contaminated with asbestos. The Committee also asked whether 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).

The Committee takes note of the information provided in the report on the new classification of chemical substances and mixtures, on the protection of workers from the risks related to exposure to carcinogens or mutagens at work and the amended Lithuanian legislation in that regard, as well as on the amended regulations on work with asbestos.

However, no information is provided in the report on whether workers are 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). Nevertheless, the Committee notes that Lithuania is a member of the European Union and that it has transposed the Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation.

Personal scope of the regulations

In its previous conclusion, the Committee requested information on the measures making it possible to check and ascertain whether the protection provided by the regulations for self-employed workers, home workers and domestic staff is applied in practice (Conclusions 2017).

The Committee notes that the information requested is dealt with in conclusion under Article 3§3 of the Charter.

The Committee takes note of the information provided in the report on the minimum requirements for healthcare on board of ships.

Consultation with employers' and workers' organisations

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

Conclusion

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

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 Lithuania.

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

In its previous conclusion, the Committee concluded that the situation in Lithuania was not in conformity with Article 3§3 of the Charter (Conclusions 2017).

Assessment of the Committee will therefore concern the information provided by the Government in response to the non-conformity conclusion and to the targeted questions

Accidents at work and occupational diseases

The Committee previously examined the situation regarding accidents at work and occupational diseases and considered that the situation in Lithuania was not in conformity with Article 3 § 3 of the Charter on the grounds that measures to reduce the number of fatal accidents at work are inadequate (Conclusions 2017). Concerning accidents at work, the Committee asked that the next report provide information on the most frequent causes of accidents at work and the preventive and enforcement activities undertaken to prevent them. 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 number of fatal accidents at work during the period 2016-2019 decreased from 37 cases in 2016 to 24 in 2019. The standardised incidence rate of fatal accidents at work also indicated a downward trend: from 3 in 2016 to 1.9 in 2019. The EUROSTAT data, although with different figures, confirms this downward trend concerning the number of fatal accidents at work (44 in 2016 and 37 in 2019) and concerning the standardized incidence rate of non-fatal accidents at work (3.69 in 2016 and 3.01 in 2019). The Committee notes that those figures are significantly higher than the EU-28 average: 1.69 in the EU and 3.69 in Lithuania in 2016; 1.65 in the EU and 2.77 in Lithuania in 2017; 1.63 in the EU and 3.05 in Lithuania in 2018.

According to the report, the statistics on fatal accident at work shows that the most dangerous sectors are agriculture, water supply and sewage treatment, transport, storage, construction and manufacturing. In addition, an analysis of the distribution of accidents at work, shows that the highest risk group remains the employees with a length of service of less than 1 year (36% of fatal accidents). However, the report also indicates that the number of workers who lost their lives following accidents at work during the first month of employment is steadily declining. This is due, according to the report, to the fact that the Labor Inspectorate, in its inspection activities, has specifically focused on ensuring safe working conditions of employees with up to one year of service in the companies.

The report indicates that during the period 2016-2019, the incidence rate of non-fatal accidents at work increased steadily from 314.3 in 2016 to 378.4 in 2019. However, according to the report, giving that the average rate of non-fatal accidents at work in the EU member states is 1557, the figures in Lithuania in this respect are relatively small. The EUROSTAT data, although with different figures, confirms this conclusion as according to the EUROSTAT data, the incidence rate of non-fatal accidents in Lithuania is 296.7 in 2016 (1,570.84 in the EU) and 315.73 in 2018 (1,518.78 in the EU).

The report indicates that an active supervision of the construction companies in 2016-2019 as well as consistent educational and consulting activities of the Labor Inspectorate with a special focus on measures to protect workers from falls from height during construction work, stabilizes the number of fatal and non-fatal accidents. Similar active educational measures are organized also for the agriculture and forestry sectors.

The report indicates that the statistics on occupational diseases also show a decreasing trend as the number of reported cases of occupational diseases was 461 in 2016, 536 in 2017, 415 in 2018 and 366 in 2019. During the same period, the incidence rate for such diseases was 36.9 in 2016, 38.6 in 2017, 32.6 in 2018 and 28.3 in 2019. The main diagnoses of reported occupational diseases are musculoskeletal system and nervous system diseases caused by the handling of heavy loads and repetitive work; noise induced hearing loss in manufacturing, construction, transport and agriculture sectors.

Considering that the incidence rate of fatal accidents at work is excessively high, the Committee still finds that the situation is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the number of fatal accidents at work are inadequate. The Committee asks that the next report provide updated and detailed information on the most frequent causes of fatal accidents at work and the preventive and enforcement activities undertaken to prevent them. It also reiterates its targeted questions in these respects.

Activities of the Labour Inspectorate

In its previous conclusions, the Committee concluded that it has not been established that labour inspection, insofar as it concerns occupational health and safety, is effective (Conclusions 2017). It asked that the next report provide information on the following points: any change in the general framework for labour inspection activities during the reference period; the number, while distinguishing clearly between administrative staff and inspection staff, of inspectors assigned to supervising the application of the legislation and regulations on occupational health and safety; the number of general, thematic and unscheduled inspection visits assigned solely to the occupational health and safety legislation and regulations; the application of the legislation and the regulations on the labour inspectorate throughout the country in practice; details, by category, of 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; and figures for each year of the reference period. The Committee further noted that under Article 3§3 of the Charter, States Parties must implement measures to focus inspection on small and medium-sized enterprises .

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 indicates that during the last 5 years, the Labour Inspectorate provided help and consultations to all size entities on the questions concerning labour law and the

safety and health of the employees. The Labour Inspectorate's priority in this period concerned information and education activities targeted towards small and medium sized enterprises and new enterprises which are in their first year of activities. The report indicates that in 2019, there has been an increase in the number of seminars and consultations organised by the Labour Inspectorate on the occupational safety and health.

The report also indicates that during the reference period, the number of inspected entities and the total number of the labour inspectors remained the same. The number of inspected entities was 9,668 in 2016 and 9,560 in 2019. The number of occupational health and safety inspectors was 89 in 2016 and 79 in 2019. However, during the reference period, the number of enterprises consistently increased: from 104,100 in 2016 to 107,40 in 2019, as well as the total number of employees, from 1,196 thousand in 2016 to 1,222 thousand in 2019. Moreover, in 2019, compared to 2018, the number of construction companies, which is the sector with highest risk concerning work accidents, increased by 600 (from 8,420 to 9,020).

During the inspections, in 2016, the number of entities which are found to be in violation of safety and health regulations was 1,503 in 2016 and 1,327 in 2019. In 2016, the largest number of violations of labour regulations were found in micro entities, which accounted for 52% of the total number of violations found in 2016, although the number of such violations found in these entities decreased to 28% in 2019. In 2019, the largest number of violations of OSH legislation were found in construction and manufacturing enterprises.

The report indicates that because of violations of occupational safety and health regulations, the activities of 26 entities were suspended in 2016. The number of suspended entities decreased to 9 in 2019. However, the report does not provide more detailed information on administrative measures that labour inspectors are entitled to take and on the number of such measures actually taken during the reference period. The report does not provide information on the number of cases referred to the prosecution authorities with a view to initiating criminal proceedings. Therefore, the Committee reiterates its request for information in these respects.

In reply to the question raised by the Committee, the report indicates that the Labour Inspectorate is entitled to inspect all workplaces, regardless of their form of ownership, type, nature of activity. Inspectors have the right to inspect all workplaces, including residential premisses.

The Committee considers, on the basis of information provided by the report, that although, during the reference period, the number of enterprises, including the number of construction companies, and the number of employees significantly increased, the number of inspected entities and the total number of the labour inspectors remained the same.

The Committee requests that the next report provide detailed and updated information on the proportion of workers who are covered by inspection and the percentage of companies which underwent a health and safety inspection during the reference period. Pending receipt of the information requested, the Committee concludes that there is nothing to establish that the activities of the labour inspectorate are effective in the practice.

Conclusion

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

- measures to reduce the number of fatal accidents at work are inadequate;
- it has not been established that labour inspection, insofar as it concerns occupational health and safety, is effective.

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection"). However, no targeted questions were posed in respect of Article 3§4 of the Charter.

The Committee previously examined Lithuania's framework on occupational health services and found that the situation was not in conformity with Article 3§4 of the Charter on the ground that, in the absence of any information on how the progressive development of occupational health services is promoted, it had not been established that there was a strategy to institute access to occupational health services for all workers in all sectors of economy(Conclusions 2017). The Committee will therefore restrict its consideration to the Government's replies to the previous conclusion of non-conformity.

In its Conclusions 2013, the Committee had deferred its conclusions, and asked for information on the following aspects: the actual content of occupational health services if these duties are carried out by the employer; the updating of information concerning the proportion of in-house occupational health and safety services; the proportion of external occupational health and safety services; the rate of coverage by occupational health doctors; the arrangements for giving independent, agency and temporary workers and workers on definite term contracts access to occupational health services; and the arrangements that allow the Labour Inspectorate to ensure that business enterprises comply with legal obligations, in particular the obligation to ensure that companies have health and safety services corresponding to the number of staff and the nature of hazards. The Committee also asked for information concerning the existence of a strategy to improve access to occupational health services in consultation with employers' and workers' organisations.

In the absence of any answer to the questions raised in the Conclusions 2013, the Committee, in its Conclusions 2017, took note of the information provided by OSHWiki (developed by EU-OSHA – European Agency for Safety and Health at Work, to enable the sharing of occupational safety and health knowledge, information and best practices) concerning the organisation of security and health services in enterprises, with regard in particular to the establishment of OSH services within each company, or, in the absence of such specialists able to ensure all OSH service functions, the appointment of external OSH services or persons providing the OSH functions. The Committee invited the authorities to comment on these observations and to provide all relevant information in this respect.

In reply, the report indicates that the Law on Safety and Health at Work establishes the right of every employee to compulsory health care at the workplace, which must be provided by the employer. According to this Law, the employer shall approve the list of workers for whom the health monitoring is compulsory as well as the health monitoring schedule and shall control the implementation of such schedule. A compulsory medical examination shall be carried out before the worker starts to work and periodically.

According to the report, the Law on Safety and Health at Work provides that every employer has to establish a Safety and Health Work Service at the enterprise or hire safety and health at work specialist. The smaller enterprises can make an agreement with a private or legal person from outside the enterprise for the fulfilment of such services.

The procedure and the functions of this service are set in the Model Regulation of Safety and Health at Work Services in Enterprises approved by the Order No 301 on "preventive

health Examinations in Health Care Institutions" of the Minister of Health. The Regulation sets the duties of health and safety specialists in all enterprises (including small and micro enterprises and in big enterprises) which, in particular, are as follows: – to consult the employer and the employees on the issues of occupational safety and health and to submit proposals to improve the situation as regards the safety and health at work; – to instruct the employees on safety and health matters; – to organise training for employees on occupational safety and health issues; – to compile lists of employees who are subject to compulsory health examinations; – to organise and perform the assessment of occupational risks in the enterprise and to prepare normative legal acts on the safety and health; – to participate in the investigation, analysis and registration of accidents at work and occupational diseases; – to prepare measures for the prevention of accidents at work and occupational diseases and control their implementation; – to control compliance with the requirements of regulations on occupational safety and health in the company; etc.

The report states that in Lithuania every worker has access to healthcare and consultations on health and working conditions and preventive measures on occupational risks are taken. The Labour Inspectorate controls the organisation of healthcare in companies and the implementation of the instructions of occupational health specialists. In particular, the Inspectorate controls the establishment of occupational safety and health services in enterprises including the compliance of the number of occupational health specialists with the requirements of the legislation taking into account the type of economic activity, the number of employees and occupational risks.

According to the report, 21.5% of economic entities recruited occupational health specialists and one third of the country's companies have concluded agreements for the performance of occupational health services with an external legal entity. The remaining companies purchase employee healthcare services from healthcare facilities.

The Committee considers, on the basis of this data, that approximately 45% of the companies purchase employee healthcare services from healthcare facilities. It asks that the next report provide clarification on whether the Model Regulation of Safety and Health at Work Services also applies in the context of healthcare services provided by healthcare facilities. It also asks for information on the proportion of workers covered by internal and external healthcare services as well as on healthcare services provided for domestic workers, self-employed workers and public service workers.

The Committee also requests that the next report provide the number of occupational physicians in relation to the labour force and information on any increase in the number of workers supervised by services in comparison to the previous reference period. Lastly, the Committee asks that the next report provide information on any prospects in Lithuania concerning the ratification of ILO Occupational Health Services Convention No. 161 (1985).

Conclusion

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

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 Lithuania.

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 Lithuania was not in conformity with Article 11§1 of the Charter on the ground that it has not been established that sufficient measures have been taken to guarantee the right of access to healthcare in practice (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted questions.

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

Measures to ensure the highest possible standard of health

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

The report states that life expectancy at birth stood at 76.43 years in 2019, while it was 77.31 years in urban areas and 74.83 years in rural areas. It is also reported that, in 2019, life expectancy was 71.53 years for men and 81.04 years for women.

The Committee notes from World Bank data that life expectancy at birth (average for both sexes) has increased since the previous reference period (from 74 years in 2015 to 76 years in 2019). However, the life expectancy rate is low compared to other European countries. For instance, life expectancy at birth is 5 years lower than the EU-27 average which was estimated at 81.3 years in 2019 (Eurostat). In 2017, Lithuania had one of the lowest levels of life expectancy at birth in the EU (Report *Lithuania: Country Health Profile 2019* by OECD, European Observatory on Health Systems and Policies and the European Commission).

The Committee takes also note that Lithuanian women live almost ten years longer than men according to the data provided by the report. According to the report *Lithuania: Country Health Profile 2019,* this gender gap is the second highest in the EU and is largely due to greater exposure to risk factors among men, including tobacco smoking and excessive alcohol consumption (OECD, European Observatory on Health Systems and Policies and the European Commission). The same report indicates that it is estimated that more than half of all deaths in Lithuania can be attributed to behavioural risk factors, including dietary risks, tobacco smoking, alcohol consumption and low physical activity (this proportion is far above the 39% EU average).

The Committee notes from the same source that many behavioural risk factors in Lithuania are more common among people with lower education or incomes. For example, two-thirds of those in the highest income quintile considered themselves to be in good health, compared with only one-quarter of those in the lowest quintile. The Committee asks that the next report provide information on measures taken to address the higher prevalence of risk factors among socially disadvantaged groups and the gender gap in life expectancy. It reserves its position on this point.

The report does not provide information on the prevalence of particular diseases among relevant groups (e.g., cancer) or blood-borne infectious diseases (e.g., new cases of HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison; etc.).

The Committee notes that according to the report *Lithuania: Country Health Profile 2019*, Lithuania had the highest preventable mortality rate and second highest mortality rate from treatable diseases in the EU in 2016. According to the same report, cardiovascular diseases and cancer constitute the main causes of death, while suicide remains an important cause of death, particularly among men. The Committee asks for information in the next report on the main causes of death and on the measures taken to address such causes and reduce mortality from preventable and treatable causes.

Access to healthcare

In its previous conclusion, the Committee concluded that the situation in Lithuania was not in conformity with Article 11§1 of the Charter on the ground that it had not been established that sufficient measures had been taken to guarantee the right of access to healthcare in practice (Conclusions 2017). The Committee noted the persisting problem of informal payments from patients to physicians as well as high out-of-pocket payments (Conclusions 2017).

The report does not provide any information related to the previous conclusion of non-conformity on this ground. The Committee notes from another source that out-of-pocket payments represented almost one third (32%) of health spending in Lithuania, more than twice the EU average in 2017 (Report *Lithuania: Country Health Profile 2019* OECD, European Observatory on Health Systems and Policies and the European Commission). The same report indicates that these high levels of out-of-pockets payments cause financial hardship, especially in low-income households. The Committee further notes that in 2017, health expenditure accounted for 6.5% of the GDP, the fifth lowest in the EU, and well below the EU average of 9.8% (Report *Lithuania: Country Health Profile 2019* OECD, European Observatory on Health Systems and Policies and the European Commission).

Given the lack of information in the national report and noting from other sources that the situation has not improved since the previous reference period (out-of-pocket payments represented 31.5% and health expenditure accounted for 6.2 of the GDP in 2014), the Committee considers that the situation in Lithuania is not in conformity with Article 11§1 of the Charter on the ground that insufficient measures have been taken to effectively guarantee the right of access to healthcare.

The Committee asks for updated data on the public health expenditure as a share of GDP in the next report.

In 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 and maternal mortality. It also asked for information on policies designed to remove as far as possible the causes for the anomalies observed.

The report indicates that the reproductive health services are integrated into the healthcare system. All the persons covered by the Compulsory Health Insurance and eligible to

personal healthcare services financed from the Compulsory Health Insurance Fund budget can benefit from all the services they may need, provided that such services meet the requirements for the provision of services approved by the Minister of Health, and that the personal healthcare institution has concluded an agreement with the Territorial Health Insurance Fund regarding the provision of these services. The Committee asks for clarification whether women and girls have free access to sexual and reproductive healthcare services.

The report further states that prenatal, postnatal and neonatal services are provided in accordance with the "Description of the procedure for the healthcare of women in pregnancy, in childbirth, and of new-borns approved by Order No V-900 of the Minister of Health of the Republic of Lithuania of 23 September 2013." The latter establishes the prenatal health screening requirements, the procedure of the provision of urgent counselling prenatal, postnatal and neonatal healthcare, the quality indicators of personal healthcare institutions providing services (number of C-section surgeries, number of childbirths per year). It also sets out requirements for the training of health professionals providing prenatal, postnatal and neonatal services.

The Committee notes from the Concluding Observation of the Committee on the Elimination of Discrimination against Women (CEDAW) that the CEDAW expressed concern about the still limited levels of effective access, despite the existing compulsory health insurance system, to basic health services, including access to sexual and reproductive health services and modern contraceptives, for girls and young women, including girls and women in rural areas and Roma girls and women (CEDAW, Concluding observations on the sixth periodic report of Lithuania, CEDAW/C/LTU/CO/6, 12 November 2019).

The Committee asks for information on the measures taken to ensure that women and girls have access to modern contraception, including in rural areas and for Roma women. 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).

With regard to abortion, the report indicates that abortion procedures are set out by Order No 50 of the Minister of Health of the Republic of Lithuania of 28 January 1994 on the procedure for termination of pregnancy. The report indicates that upon voluntarily termination of pregnancy, personal healthcare services are not financed from the Compulsory Health Insurance Fund (the CHIF). Surgical abortions for medical reasons are financed from the CHIF budget. In all cases, the woman's (and, preferably, her spouse's) consent is required to terminate her pregnancy.

The Committee asks for clarification of the costs of abortion and whether they are reimbursed by the State in total or in part. It also asks whether abortion care is available in medical facilities across the country, including in rural areas.

The report further provides statistical data on early motherhood showing a decreasing trend in the number of live births among underage mothers during the reference period. The Committee asks whether girls under 18 have effective access to family planning and contraception.

The report indicates that the infant mortality rate (number of infant deaths per 1 000 live births) stood at 3.3 in 2019 and has decreased since the previous reference period (4.2 in 2015). According to Eurostat, the EU–27 average in 2019 was 3.4 infant deaths per 1,000 live births.

As regards the maternal mortality rate, the report indicates that it stood at 6.5 per 100,000 live births in 2016, 7 in 2017, 14.2 in 2018 and 11 in 2019 (as provided by Statistics Lithuania). The Committee notes from World Bank data that the maternal mortality rate stood at 8 deaths per 100,000 live births in 2016 and 2017 (latest available data) and has decreased since the previous reference period (9 in 2015). The Committee notes that the EU average in 2017 was 6 deaths per 100,000 live births.

The Committee observes that according to the report, the maternal mortality rate has increased during the reference period reaching 14.2 in 2018 and 11 in 2019. Noting the worrying increasing trend of maternal mortality which, examined together with the low life expectancy, points to a weakness of the health system, the Committee asks for updated information on the maternal mortality rate in the next report and information on measures taken to reduce maternal mortality and improve the health of mothers. Meanwhile, it reserves its position on this point.

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

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

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

In a targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). The report indicates that according to Article 17(2) of the Law on the Rights of Patients and Compensation of Damage to Health, the patient's informed consent must be obtained to undergo a specific surgical, invasive and/or interventional procedure. Such consent must be given in writing by signing a form that meets the requirements approved by the Minister of Health, except for the cases when the integrity of tissues and/or organs is not affected during the invasive and/or interventional procedure or when the procedure may pose only a minor undesirable temporary effect on the patient's health.

Covid-19

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

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

With regard to treating those who are ill, the report does not answer the Committee's questions. The Committee reiterates its request that the next report on Article 11§1 evaluate

the measures taken to treat the patients (sufficient number of hospital beds, including intensive care units and equipment, and the rapid deployment of sufficient numbers of medical personnel). It also asks that the next report indicate the measures taken or foreseen as a result of this evaluation.

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 Lithuania is not in conformity with Article 11§1 of the Charter on the ground that insufficient measures have been taken to effectively guarantee the right of access to healthcare.

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 Lithuania.

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

In its previous conclusion, the Committee found that the situation in Lithuania 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. It 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 provides detailed information on the measures and activities undertaken (information campaigns, training programmes, counselling and education services, etc.) within the framework of various programmes aimed at the general public. These activities cover a variety of areas, such as the prevention of alcohol, tobacco, drugs and other psychoactive substances consumption, depression and anxiety, suicide prevention, psychological well-being, etc.

As regards health education in schools, the report indicates that schools implement the general Programme for Health and Sexuality Education and Preparation for Family Life (PHSEPFL), approved by Order No. V-941 of the Minister of Education and Science of 25 October 2016, in order to develop, *inter alia*, healthy lifestyle skills and activities of health promotion and prevention of harmful habits, and to integrate health education into school life by organising and carrying out various health promotion activities. The Committee notes that the Programme covers a wide range of topics, such as self-awareness, gender identity, bullying, the social-emotional state of a child, sexual development (SOGI, responsible sexual behaviour, sexual diversity, discrimination, exclusion), etc. The Committee also takes note of various health promotion activities targeting schoolchildren (physical activity, healthy lifestyle education, creation of a safe environment, safe behaviour in water) which were carried out during the reference period.

As regards health education in vocational education training (VET) institutions, the report indicates that in 2016-2017, the Institute of Hygiene conducted a study, which aimed at identifying health promotion activities and factors enabling their development in VET institutions. Research has revealed that different topics, such as sexual education, healthy eating, promotion of physical activity, smoking, use of psychoactive substances, prevention of bullying, are integrated into a variety of subjects (biology, physical education, moral education, etc.).

The report indicates that according to the Law on Education amended in 2016, schools must ensure since 1 September 2017 that every child participates in at least one programme on the prevention of harmful habits. Schools are responsible for identifying their most pressing problems and selecting one or more preventive programmes from the list of 22 preventive

programmes recommended for implementation in schools by the Ministry of Education, Science and Sport. The Committee notes that, according to statistical data provided in the report, the number of schools implementing preventive programmes keeps growing.

The report also indicates that the Drug, Tobacco and Alcohol Control Department has introduced the European quality standards for the prevention of use of psychoactive substances and has organised training for practitioners at national level since 2016.

The Committee notes from the report that public health professionals working in schools prepare an annual public health action plan for each individual school. Such plans include the most important topics for the school community, which will be implemented during the year through various actions (e.g., training, discussions, lessons, etc.). The online survey conducted in 2020 showed that public health professionals included eating disorders, alcohol, tobacco and drug use, suicide prevention, and violence in their latest annual action plans. The report also indicates that teachers play their part as well in the implementation of the Health and Sexuality Education and Family Training Programme, approved by the Ministry of Education, Science and Sport.

Counselling and screening

In its previous conclusion, the Committee found that the situation in Lithuania was in conformity with Article 11§2 with respect to counselling and screening services available to pregnant women and children (Conclusions 2017). However, it asked for updated information on this point. It also asked for updated information on coverage rates (number of persons screened from the target population) and on the impact of the screening programmes on early diagnosis rates, survival rates, etc. The Committee reiterates its questions.

Conclusion

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

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

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

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 deferred its conclusion (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 indicates briefly that new regulations on organising and providing prison healthcare services were adopted in 2020, which appear to provide the Ministry of Health with enhanced responsibilities in the area. Such a development would be in line with a longstanding line of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommendations, as noted most recently in its 2019 report on Lithuania.

The Committee asks for more detailed information regarding the contents and implementation of the regulations in question, in terms of institutional arrangements for providing prison medical care, staffing levels and other resources, practical arrangements, medical screening on arrival, access to specialist care, prevention of communicable diseases, mental health-care provision among other issues.

Community-based mental health services

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

The report provides some information regarding the process of deinstitutionalisation of persons with disabilities underway in Lithuania. This issue is subject to more targeted review in the context of Article 15§3 of the Charter (Conclusions 2020).

The report also notes briefly that mental healthcare is dispensed in outpatient and inpatient facilities, and that an action plan for addressing the long-term negative mental health effects of the Covid-19 crisis was adopted.

The 2017 Commissioner for Human Rights country visit report highlighted the high suicide rate and the prevalence of bullying in schools. Nonetheless, the infrastructure of mental health for children and youth remained fragmented, with insufficient human and financial resources, while treatment relied mostly on pharmacotherapy. The Commissioner noted that Lithuania lacked a comprehensive suicide prevention strategy focusing on young people and for providing psychological services for those belonging to risk groups.

The 2019 Lithuania Country Health Profile by the European Observatory on Health Systems and Policies noted that strategies were in place to prevent suicide, for the early detection of depression symptoms and to provide more appropriate treatment for other mental health issues. A substantial share of institutionalised psychiatric and substance abuse services had reportedly moved into general hospitals and outpatient mental health centres to reduce the stigma associated with mental health disorders. At the primary care level, services were delivered in 115 mental healthcare centres, sometimes co-located with primary care centres. On the other hand, the 2020 European Semester report on Lithuania notes that the quality of healthcare for people with mental health issues is limited with insufficient coordination across different healthcare providers.

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 asks for more detailed information in response to the targeted question, namely 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 asks 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. In light of the foregoing, the Committee asks for information on measures to reduce the number of suicides.

Drug abuse prevention and harm reduction

In a targeted question, the Committee asked for information about drug-related deaths and transmission of infectious diseases among people who use or inject psychoactive substances both in the community and in custodial settings. The Committee also asked for an overview of the national policy designed to respond to substance use and related disorders (dissuasion, education, and public health-based harm reduction approaches, including use or availability of WHO listed essential medicines for opioid agonist treatment) while ensuring that the “available, accessible, acceptable and sufficient quality” criteria (WHO’s 3AQ) are respected, subject always to the exigency of informed consent. This rules out, on the one hand, consent by constraint (such as in the case of acceptance of detox and other mandatory treatment in lieu of deprivation of liberty as punishment) and, on the other

hand, consent based on insufficient, inaccurate or misleading information (i.e. not based on state of the art scientific evidence).

The report provides information about the number of drug-related deaths broken down by age, which indicates a decrease over the reference period (from 109 deaths in 2016 to 52 in 2019). The report also presents various epidemiological data which appears to reveal a positive trend with respect to HIV, where injecting is a risk factor, but is more ambiguous on Hepatitis C and Hepatitis B transmission. Opioid substitution treatment is provided in 22 specialised centres for mental disorders, but territorial coverage is uneven. A special decree adopted by the Ministry of Health in 2006 defines a mandatory package of services for injecting drug users, including syringe/needle exchange, distribution of disinfectant tools, distribution of condoms, health education to reduce risk behaviour, providing information and counselling. Naloxone is available with a prescription. A State program on drugs, tobacco, and alcohol control 2018–2028 was approved in 2018, to coordinate and implement policy in this field. The report also provides some information on the prevalence of drug use and harm reduction measures in prison. The number of HIV infections in prison has increased during the reference period. Opioid substitution period is only provided to prisoners who were already receiving it prior to arrest. Needle exchange services and naloxone are not available in prisons.

The Committee refers to the longstanding concerns expressed by the Committee for the Prevention of Torture (CPT, most recently in its 2019 report on Lithuania) regarding the omnipresence of drugs in prisons, the high level of inter-prisoner violence, intimidation and exploitation linked with it, and the serious risk of prisoners becoming drug dependent and contracting HIV and Hepatitis C while in prison by sharing injecting equipment.

The Committee asks for information about the measures taken to improve the management of drug addiction in prison, including through dissuasion, education, and public health-based harm reduction approaches.

Healthy environment

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

Additionally, in its previous conclusions, the Committee reiterated its request for information on the concrete measures taken, including environmental legislation and regulations on the prevention of avoidable risks, as well as on the levels and trends with regard to air pollution, waste management, water contamination and food safety during the reference period (Conclusions 2017). The Committee pointed out that if such information was not provided, there would be nothing to establish that the situation was in conformity with the Charter on this point.

The report outlines the arrangements designed to prevent exposure to air, water, and other forms of environmental pollution from industrial sites, including regulations on sanitary exclusion zones adopted in 2019, public health impact assessments, pollution from nuclear facilities, the licensing and decommissioning of industrial sites. The report also describes the regulations in force regarding air pollution and air quality management, including with respect to emission ceilings, environmental impact assessments, pollution permits and environmental monitoring. The air pollution trends during the reference period have been positive. For example, average concentrations of PM10, PM2.5, NO2, benzene and heavy metals did not exceed their target values. The report also presents information regarding

water pollution prevention and control measures, regulations and targets on waste management, and measures aimed at raising public awareness on the environment.

Immunisation and epidemiological monitoring

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

The report notes that Lithuania has allocated funding for national and international initiatives to develop vaccines and other solutions in the context of the Covid-19 pandemic.

Covid 19

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

The report does not address this question.

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 concludes that the situation in Lithuania is in conformity with Article 11§3 of the Charter.

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 Lithuania.

Risks covered, financing of benefits and personal coverage

According to the report, in 2019, 99% of the total population was insured for healthcare; out of the active population of 1 470 380, the percentage of persons insured was 97% as regards unemployment, 98% as regards sickness, 99% as regards old-age, 99% as regards disability, 98% as regards maternity and 92% as regards accident at work and occupational diseases.

Adequacy of the benefits

According to Eurostat, the median equivalised annual income in 2019 stood at €3,793. The poverty level, defined as 50% of the median equivalised income stood at €316 per month. 40% of the median equivalised income corresponded to €253 monthly. The minimum wage was €551 per month in 2019.

In its previous conclusion (Conclusions 2017) the Committee found that the situation was not in conformity with the Charter as the minimum levels of sickness, old age, unemployment and disability benefits were inadequate.

As regards **sickness benefit**, the Committee notes from the report that in June 2016 amendments to the Law on Sickness and Maternity Social Insurance were adopted which came into force on 1 January 2017. At the end of 2019, the minimum level of sickness social insurance benefit could not be lower than 11.64% of the national average monthly salary (€148.76). According to the report, workers earning minimum wage receive a higher level of sickness benefit. In 2020 when the minimum wage stood at € 607, in case of temporary incapacity for work the worker received a sickness benefit of € 374 per month. The Committee estimates that in 2019 a worker earning the minimum wage received €336 in sickness benefit. The Committee asks whether this estimation is correct and asks the next report to provide information about the amount of sickness benefit paid to a worker receiving the minimum wage as well as the replacement rate for this benefit.

As regards **unemployment benefit,** the Committee notes that the above mentioned amendments have also modified the conditions of entitlement to unemployment benefit, by reducing the qualifying period from 18 to 12 months of employment and by changing the formula for calculating the amount of benefit. As regards the minimum level of benefit, according to the report the fixed component of the unemployment benefit was set at 23.3% of the minimum monthly wage. As regards the variable component, it is calculated on the basis of the worker's average monthly insured income. The Committee notes that the fixed component of the benefit is always complemented by the variable component and thus it is never the lowest level that the worker will receive. According to the report, the fixed component of the unemployment benefit in 2019 stood at € 129 (23.3% of the minimum wage) and thus, together with the variable component, the worker received € 341 in unemployment benefit. The Committee considers that the minimum level of unemployment benefit is adequate.

As regards **old age benefit**, the Committee takes note of the reform introduced in 2018, which changed the pension structure and introduced pension points and set the indexation rules. A social insurance pension consists of the general and individual parts. The Committee notes that the basic pension in 2019 stood at € 164.59 and the average old age pension stood at € 344. The average incapacity pension amounted to € 225. The Committee asks what are the minimum amounts of social insurance pension and incapacity pension that a person earning minimum wage would receive, under the new system, both with or without

mandatory years of contribution. In the meantime, the Committee reserves its position on this point.

Conclusion

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

Article 12 - Right to social security

Paragraph 3 - Development of the social security system

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

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

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

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

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

Platform workers

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

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

In its report, the Government states that in view of the fundamental changes that are taking place in the labour market (including the emergence of new forms of work), the Lithuanian social security system seeks to guarantee access for all workers (employees and the self-employed) to adequate social protection, as well as transparency and transferability of social security entitlements. In this context, the social security system is being modernised; a large-scale reform began at the beginning of 2017. Among other goals, this reform aims to integrate self-employed persons into the state social security system and include the different groups of platform workers (such as persons working in the bicycle delivery service sector) in the "self-employed persons" category in order to expand their social security coverage and improve their social insurance benefits. The Government adds that several types of self-employed persons have already been integrated into the state social security system and have obtained health insurance and maternity insurance. A number of

challenges remain, however, such as ensuring that self-employed persons can – at least voluntarily – be insured against the risks of unemployment and occupational injuries (Lithuanian social security system).

The Government points out that in 2016, there were 155,400 self-employed persons (96,500 men and 58,900 women) in Lithuania, equating to 11.4% of the entire working population. The great majority of self-employed persons (129,200, or 83.1%) were working full time; 26,200 (or 16.9%) were working part time.

The Committee takes note of this information, which is useful but does not give it a full picture of the social security coverage of digital platform workers. It asks for detailed and updated information in the next report on the number of digital platform workers (as a percentage of the total number of workers), their status (employees, self-employed and/or other category), the number/percentage of these workers by status and their social security protection (by status). The Committee also asks whether, as part of the reform launched in 2017, measures have been taken or are planned in order to continue to improve the social security coverage of digital platform workers.

Covid-19

In response to the second question, the Government mentions several measures that have been put in place in the social security sector to alleviate the impact of the Covid-19 crisis. These measures include paying the following benefits:

- a monthly allowance (€257) to self-employed persons, subject to certain conditions – nearly 98,000 beneficiaries from April to mid-December 2020;
- financial assistance (€6,980.50) for self-employed persons who want to change their economic activity (after receiving the aforementioned monthly allowance) – approximately 1,600 beneficiaries from July to mid-December 2020;
- a monthly allowance, for six months, for unemployed persons not participating in active labour market policy measures (€200 for unemployed persons not in receipt of unemployment benefits, and €42 for those in receipt of unemployment benefits) – approximately 302,000 beneficiaries from July to mid-December 2020;
- a lump-sum allowance (€200) for recipients of a retirement pension who reside in Lithuania – nearly 867,000 beneficiaries from August to mid-December 2020.

In addition, the list of health insurance benefits has been expanded to include, among other things, allowances for stopping work: for employees who have to look after elderly or disabled persons, if the institutions that care for these persons close (payment of 65.94% of salary); for workers (parents, guardians, grandparents) who have to look after school-enrolled children up to level 4 inclusive, if distance learning is made compulsory (payment of 65.94% of salary); for persons suffering from a serious chronic illness as per the list drawn up by the Ministry of Health (payment of 62.06% of salary); for adult employees subject to a lockdown obligation, e.g. because they have come into contact with a person infected with coronavirus and are unable to work remotely (payment of 62.06% of salary). The Government points out that 494,324 certificates of incapacity for work and sickness (Covid-19) were issued (for lockdowns, sickness, looking after children/family members) and a total of nearly €174 million was paid between March and mid-December 2020.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 12§3 of the Charter.

Article 12 - Right to social security

Paragraph 4 - Social security of persons moving between States

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

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

Right to equal treatment

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

According to the report, nationals of other States Parties legally resident in Lithuania enjoy the same status as Lithuanian nationals with respect to the payment of state social insurance contributions which should be paid by employed or self-employed persons. Persons employed under employment contracts in Lithuania are covered by compulsory social insurance in respect of pensions, sickness, maternity, unemployment, accidents at work and occupational diseases. Law on Sickness and Maternity Social Insurance Article 3(1) stipulates that the insured person means a natural person paying the state social insurance contributions for himself and for whom the state social insurance contributions are paid or had to be paid under the law in compliance with the procedure established by the Law on State Social Insurance. For entitlement to benefits for accidents at work and occupational diseases no minimum social insurance period is required. The person should satisfy the condition that he or she has been insured by accidents at work and occupational diseases insurance at the time of the accident. The entitlement to state social insurance pension is not related to nationality. The pension is paid to person who lives in Lithuania and satisfies requirements for the relevant type of the pension (e.g. minimum period of insurance, age, incapacity for work). The Committee thus notes that the legislation guarantees equal access to social security system. It asks whether entitlement for social security benefits (e.g. non-contributory) requires completion of a period of residence.

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

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

The Committee is aware that States Parties that are also EU Member States, on the basis of the EU legislation on coordination of the social security system are obliged to apply coordination rules which to a large extent prescribe exportability of child benefits and family allowances. When the situation is covered by the Charter, and the EU legislation does not apply, the Committee has regard to its interpretation according to which the payment of child benefits to all residing children, as a starting point, is an unilateral obligation for all States Parties. The Committee decides no longer to examine the issue of exportability of child benefits under Article 12§4a.

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

The Committee asks whether child benefit is paid in respect of all resident children, including foreign nationals.

Right to retain accrued benefits

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

The Committee notes that it has previously considered that the situation was in conformity on this point. The report further states that Lithuania has transported to its national legislation EU directives regulating the conditions of entry and residence of third-country nationals to the EU Member States (i.e. Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State; Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment; Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers; Directive (EU) 2016/801 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing and Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intracorporate transfer). All these directives include provisions regarding equal treatment with nationals of the host Member State regarding branches of social security as defined in Regulation (EC) No 883/2004 with some possible derogation mentioned in the directives. There are also provisions regulating export of pensions.

The Committee asks whether Lithuania ensures retention and export of pension, disability and survivor's benefits for nationals from non-EEA States with whom it has not concluded bilateral agreements on social security.

Maintenance of accruing rights

The Committee recalls that under Article 12§4b there should be no disadvantage in terms of accrual of rights for persons who move to another State for employment in instances in which they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory for the

purposes of the opening, calculation and payment of benefits. In the case of long-term benefits, the pro–rata approach should also be employed. States may choose between the following means in order to ensure maintenance of accruing rights: bilateral or multilateral agreement or, unilateral, legislative or administrative measures. States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.

As regards bilateral agreements, the Committee notes from the report that Lithuania has concluded agreements with countries with which there are a significant migration flow and a mutual interest in concluding such agreement (Canada, Moldova, the Russian Federation, USA, Belarus, Ukraine). In 2016-2017 Lithuania sent Notes by diplomatic channels to Georgia and Armenia for the initiation of the bilateral agreements on social security. Georgia informed that they will be ready to start negotiations after changes in pension system. Lithuania has not received an official reply from Armenia. In 2020 Lithuania has opened negotiations with India and Turkey. In 2021 Lithuania will further analyse the need of other bilateral agreements .

The Committee asks how the maintenance of accruing rights is ensured for nationals of those States Parties with which no relevant bilateral agreements have been concluded.

Conclusion

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

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 Lithuania.

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

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

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

The previous conclusion considered that the situation in Lithuania was not in conformity with Article 13§1 of the Charter on the grounds that: the levels of social assistance and of social assistance pension are not adequate; nationals of other States Parties are subject to a length of residence requirement of five years to become eligible for social assistance.

General legal framework, types of benefits and eligibility criteria

The Committee takes note of the developments during the reference period. Eve if outside the reference period, the report refers to the fact that on 7 May 2020, amendments to the Law on Cash Social Assistance for Poor Residents were adopted: from June 2020 the benefit is available if the average income per month and per person does not exceed € 137,5. This excludes the one-off benefit of € 200 which the elderly and people with disabilities will receive. These solutions aim to enable more people to receive support. Another change that will expand the circle of people who can receive cash social assistance is that the applicant's property will not be valued for 6 months after the cancellation of the emergency situation and quarantine. Before, the procedure was that if a person has property in excess of a certain threshold, he/she might not be entitled to the assistance.

There is a compensation to be paid for heating costs, hot and drinking water costs, and the Law on Benefits to Children was adopted in 2017. From 1 January 2018, a "universal" child benefit paid to each child was introduced, amounting to € 30.02 in 2018, € 60.06 in 2020 and € 70 in 2021. Further improvements have been made to reduce the waiting time for social housing, as well as for increasing the compensation for housing rent costs.

Levels of benefits

To assess the situation during the reference period, the Committee takes into account the following information:

- Basic benefit: the Committee notes from MISSOC that on 1 January 2020 the monthly social assistance benefit level for single persons stood at € 175.
- Additional benefits: according to MISSOC reimbursement of the cost of heating, hot water and drinking water is provided for the family based on a means test. A family should not have to pay more than 10% of the family income above the State Supported Income, 5% of the family income for basic standard hot water

and 2% of the family income for basic standard of drinking water. The Committee notes that all these benefits together stand at around € 40 per month.

- Medical assistance: in its former conclusions of 2017, the Committee had asked updated information regarding medical assistance to persons in need. There is no information in this respect in the report. According to MISSOC, there are no special rights concerning health care.
- Housing allowances: Individuals and families who rent a dwelling from natural and legal persons under market conditions can receive a partial reimbursement of housing rental. Entitlement to the benefit is based on the following conditions:
    - having declared as the place of residence;
    - assets and income not exceeding determined limits;
    - not owning a dwelling or if owning one, more than 60% of it is worn out or the floor area per person is too small;
    - having concluded the housing lease agreement for at least one year and having it registered in the State Enterprise Centre of Registers.

    The amount of the benefit may vary according to the composition of the family and the location where the dwelling is rented.
- Poverty threshold estimated at 50% of the median equivalised income and calculated on the basis of Eurostat at-risk-of-poverty threshold): it amounted to € 316 in 2019. The report states that there has been a decrease in the overall at-risk poverty rate, which stood at 22.5% in 2019.

The Committee further notes that since 2017, the Ministry of Social Security and Labour has estimated the amount of the so called “minimum consumption needs basket” (MVPD). The basket consists of two parts: food and non-food part and is calculated for one person and for the other family members (first person gets 100% of MVPD, the second 80% and for the third and subsequent person, 70%). The MVPD amount shows what is the minimum amount needed for person (family) to meet basic food and non-food needs. Other benefits and their amounts are connected with MVPD. For instance, the basic social allowance cannot be less than 16% of previous year MVPD size, state supported income cannot be less than 50% of previous year MVPD size and assistance pension base cannot be less than 56% of previous year MVPD size. The MVPD was of € 238 in 2017 and € 260 in 2021.

In the light of all the data and mainly the poverty threshold, the Committee notes that the combined level of basic and supplementary benefits available to a single person without resources is not adequate as the total amount that can be obtained falls below the poverty threshold. Therefore, the situation is not in conformity with the Charter.

Since Lithuania has not accepted Article 23, the Committee also examines the situation as regards the minimum level of pension benefit under Article 13.

The rules on social assistance pensions were changed in the reference period. In 2017, the social assistance pension was detached from the social insurance basic pension and its amount was linked to amount of minimum consumption needs (it was determined that the basis for the social assistance may not be less than 54% of minimum consumption needs). In 2019, the social assistance pension was increased to € 132.

The Committee recalls that when the social insurance pension is lower than the social assistance pension, the difference is paid, and that the social assistance pension is paid to persons who do not qualify for a social insurance pension. The social assistance pension for the elderly falls below the poverty threshold and is, therefore, not adequate. Therefore, the situation is not in conformity with the Charter.

Right of appeal and legal aid

The Committee notes that no targeted questions were asked as regards the right of appeal and legal aid. It requests the next report to provide updated information regarding right of appeal and legal aid.

Personal scope

The specific questions asked in relation to Article 13§1 this year do not include an assessment of assistance to nationals of States parties lawfully resident in the territory. Therefore, this particular issue will only be assessed if there was a request of information or a non-conformity in previous cycle.

Foreign nationals lawfully present in the territory

In its former cycle of Conclusions in 2017, the Committee had considered that the situation in Lithuania was not in conformity with the Charter on the ground that the granting of social assistance benefits to nationals of other States Parties was subject to a length of residence requirement, reiterating former non-conformities concluded in 2013 and 2006.

The report does not contain any information on this point. The Committee notes from MISSOC that those entitled to receive social assistance are either citizens of Lithuania; aliens with a long-term permit to reside in Lithuania or in the European Union; citizens excluding workers of a Member State of the EU or EFTA or a family member with right of residence in Lithuania who has been residing there for at least three months; aliens who have been granted protection in Lithuania, apart from those who during the integration period receive support from the funds for integration; a foreign citizen who is granted asylum in the Republic of Lithuania or temporary protection.

The Committee therefore understands that this is the same situation existing before ad that there have been no changes. The Committee reiterates therefore its previous conclusion of non-conformity in this respect.

Foreign nationals unlawfully present in the territory

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

The report does not contain any information in this respect. The Committee asks the next report to confirm that the legislation and practice comply with these requirements. 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 contain specific information about the measures taken related to Article 13 during the Covid-19 pandemic. It refers only to the fact that a lump-sum children's benefit was introduced to reduce the effect of Covid-19 from 12 June 2020 for every child who is granted child benefit, without regard to the family income. According to the Law on Benefits for Children, there should be paid a lump-sum children's benefit amounting to € 120. For low income families raising one or two children, families raising three or more children and disabled children who are granted additional child benefit, an extra lump-sum children's benefit amounting to € 80 should be paid additionally. The Committee asks the next report to produce further information on social assistance and specific measures taken during the Covid-19 pandemic.

Conclusion

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

- the levels of social assistance, including for the elderly persons, are not adequate;

- nationals of other non EEA States Parties are subject to a length of residence requirement of five years to become eligible for social assistance.

Article 13 - Right to social and medical assistance

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

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

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

Article 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 Lithuania.

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

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

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

In response to the targeted questions, the report provides that during the COVID-19 pandemic, social services were provided remotely, except provision of vital services for example, as services as food supply. Providing home help services were recommended to thin the visits. It has been recommended that services for families at social risk be provided more intensively than usual due to the fact that children spend more time at home after the closure of kindergartens and schools. Restrictions on the provision of services were not applied to independent living homes and accommodation for the homeless. Social services institutions were provided with necessary personal protective equipment. For working in life-threatening conditions employees were awarded with bonuses. In November 2020, the Minister of health of the Republic of Lithuania approved the decision „On the necessary conditions on the activities of social services institutions“which determines how social service institutions should operate during quarantine. The report also provides that financial support measure was adopted to support NGOs that provide social services and to help non-governmental organisations affected by consequences of COVID-19 to ensure the continuity of services provided to the public.

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

Conclusion

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

Article 14 - Right to benefit from social welfare services

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

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

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

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

The report states that services to a person are provided only after assessing the person's needs and expectations to receive one or another social service. All decisions are taken together with the person. In case of provision of family social services, health or education systems specialists and other services providers take responsibilities for the family but the family also defines their responsibilities very clearly in implementing the decisions made in the case management process. The report further provides that the Law on Social Services does not give a priority to any legal status of institution, all legal entities whose field of activity is the provision of social services may provide social services. Municipal social service institutions are needed only at the time when there are no other service providers, or the services they provide do not meet the needs. It provides an example of subsidy for NGOs who incurred costs due to the COVID-19 pandemic.

The report does not, however, fully respond to the Committee's specific questions which have been extended for the purpose of this review. The Committee asks how the user participation is encouraged in legislation and other decision-making, how the general principles of user participation are implemented in various social services and whether any practical measures to support it, including budgetary measures, have been adopted or envisaged. In the meantime, it considers that the information provided does not allow for the assessment to be made as to whether the requirements of Article 14§2 have been met.

Conclusion

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