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EUROPEAN SOCIAL CHARTER (REVISED)

European Committee of Social Rights

Conclusions 2021

REPUBLIC OF MOLDOVA

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 the Republic of Moldova, which ratified the Revised European Social Charter on 8 November 2001. The deadline for submitting the 16th report was 31 December 2020 and the Republic of Moldova submitted it on 11 February 2021.

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

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

Comments on the 16th report by the Coalition for Inclusion and Non-Discrimination ("CIN") were registered on 29 June 2021. The reply from the Government to the Coalition for Inclusion and Non-Discrimination ("CIN") comments was registered on 20 August 2021.

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

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

The Republic of Moldova has accepted all provisions from the above-mentioned group except Articles 3§4, 13§4, 14, 23 and 30.

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

The conclusions relating to the Republic of Moldova concern 13 situations and are as follows:

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

In respect of the other two situations related to Articles 3§1 and 12§4, 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 the Republic of Moldova under the Revised Charter.

The next report from the Republic of Moldova 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 the Republic of Moldova.

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, pending receipt of the requested information, the Committee deferred its conclusion (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the deferral and to the targeted questions.

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

General objective of the policy

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

The report does not provide the information requested. The Committee therefore reiterates its request and considers that, if the requested information is not provided in the next report, there will be nothing to establish that the situation in the Republic of Moldova is in conformity with Article 3§1 of the Charter in this respect.

In its previous conclusion, the Committee noted that, according to the report, the National Labour Inspectorate is responsible for implementing Law No. 186/2008 on occupational safety and health, both in public and private areas of activity (Conclusions 2017). The Committee requested again that the State provided in the next report details of implementing and harmonising measures relating to Law No. 186/2008 and examples of its implementation in practice.

The Committee notes that, as an example of the practical implementation of Law No. 186/2008, the report states that in accordance with the provisions of this law and of Government Decision No. 95/2009 on the approval of some normative acts regarding the implementation of the Law No. 186/2008, measures have been taken within the General Inspectorate of Border Police (GIBP) in order to respect safety and health at work. The Committee notes that the information provided does not relate to the reference period, and it therefore reiterates its request that the next report provide details of implementing and harmonising measures relating to Law No. 186/2008, as well as practical examples of its implementation during the reference period.

The Committee noted that the 2017 report did not provide any information on the activities carried out by the State in terms of research, knowledge and communication relating to psychosocial risks and it reiterated its previous request. The report does not provide any of the information requested concerning psychosocial or other emerging and new risks (e.g., those linked to the platform economy or those linked to jobs that demand workers' ongoing

and intense attention like operating with heavy machinery, vehicles or even computers). The Committee therefore reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in the Republic of Moldova is in conformity with Article 3§1 of the Charter in this respect.

Organisation of occupational risk prevention

The Committee previously noted that the 2017 report provided information on the measures for occupational risk prevention, awareness-raising and assessment of work-related risks, as well as information and training for workers (Conclusions 2017).

Improvement of occupational safety and health

The Committee previously took note of the training provided for the improvement of occupational safety and health. (Conclusions 2017)

Consultation with employers' and workers' organisations

The Committee previously noted the existence of effective social dialogue with employees' and employers' representatives in the formulation, implementation, and periodic review of the OSH policy through OSH committees (Conclusions 2017). However, it repeated its request for details of the arrangements for consultation when occupational health and safety committees did not exist. The report does not provide the details requested. The Committee therefore requests the Government to provide this information in the next report. 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 the Republic of Moldova is in conformity with Article 3§1 of the Charter on this point.

COVID-19

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

The Committee notes that the Government has adopted regulations with the purpose of containing the spread of Covid-19, namely the adoption of Parliament Decision No. 55/2020 on declaring a state of emergency on the entire territory of the Republic of Moldova. In particular, the Committee notes that, according to the report, the National Administration of Penitentiaries (NAP), the Ministry of Internal Affairs (MIA) and the GIBP have taken several actions aimed at the detection and prevention of Covid-19. Those actions include the provision of Covid-19 related equipment in prisons, training sessions for workers in the MIA and specific training and psychosocial risk assessment for GIBP staff. The Committee also notes that the National Employment Agency (ANOFM) provided its officials with protective equipment and reorganised its activity with the aim of reducing the risk of spreading the Covid-19 infection. The report states that, within the territorial subdivisions for employment (STOFM), measures were taken to develop online work with jobseekers and the unemployed, such as online registration of unemployed persons, providing unemployment benefits during the emergency period and providing employment services, etc.

The Committee recalls that during a pandemic, States Parties must take all possible measures as referred to above in the shortest possible time, with the maximum use of available financial, technical and human resources, and by all appropriate means, both national and international in character, including international assistance and cooperation.

The Committee notes that the report provides no information regarding general guidance for employers and training and instructions for employees. The report also does not provide any information regarding the guidance provided to healthcare staff.

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 within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources, including through the adoption of any additional measures that are required to ensure that the State is able to comply with its Charter obligations in the face of the social rights risks posed by the Covid-19 crisis.

The Committee points out that, in order to secure the rights set out in Article 3, a response to Covid-19 in terms of national law and practice should involve the immediate introduction of health and safety measures at the workplace, such as appropriate 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.

Based on the information provided in the report, the Committee understands that the Government is aware that general safety rules on training and instructing of workers and on personal protective equipment have still to be applied, given the evolution of the pandemic, and emphasises that the prompt provision of the necessary personal protective equipment is particularly necessary in the case of frontline workers.

Conclusion

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

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Safety and health regulations

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 3§2 of the Charter as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”).

The Committee notes that it previously found the situation not to be in conformity on the grounds that it had not been established that levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces are in line with the level set by international reference standards and that self-employed workers are not covered by occupational health and safety legislation (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted question.

Content of the regulations on health and safety at work

In its previous conclusion, the Committee 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 that the next report provided full and detailed information on the legislation and regulations, including any amendments thereto adopted during the reference period. The Committee considered that if the requested information was not provided in the next report, there would be nothing to establish that the situation in Moldova is in conformity with Article 3§2 of the Charter (Conclusions 2017).

In response, the report states that between 2016 and 2019 the developments in the field of safety and health at work were carried out in accordance with legislation in force: Law on safety and health at work (No. 186/2008), Labour code (No. 154/2003), Regulation on the organisation of activities for the protection of workers at work and prevention of occupational risks (No. 95/2009). The report mentions that in 2017 trainings were organised in the field of safety and health at work and in all subdivisions of the Medical Service regular trainings were organised every 6 months. The Committee points out that no information requested in its previous conclusion is provided. Therefore, the Committee concludes that it has not been established that there are occupational health and safety regulations covering psychosocial risks (work related stress, aggression and violence).

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.

However no information is provided in the report on these issues. The Committee therefore repeats this request for information. 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 Moldova 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

In its previous conclusion, given the absence of information about the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces in line with the levels set by international reference standards, the Committee concluded the situation in Moldova was not in conformity with Article 3§2 of the Charter (Conclusions 2017).

The Committee notes that no answers to its questions are provided in the current report and requests the next report to provide the relevant information. Therefore, the Committee concludes that it has not been established that levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces are in line with the level set by international reference standards.

Protection against hazardous substances and agents

In its previous conclusion, the Committee asked for details on the specific provisions relating to protection against risks of exposure to benzene. It also asked whether the authorities considered drawing up an inventory of all contaminated buildings and materials and asked to provide specific information on steps taken to this effect. As regards ionising radiation, the Committee 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) (Conclusions 2017).

The report provides no information in this respect. The Committee thus reiterates its previous request of information in this respect.

Personal scope of the regulations

The Committee previously noted that self-employed workers were not adequately protected under Article 3§2 of the Charter. The Committee also noted that domestic workers were not

explicitly excluded from the definition of workers and were therefore covered by the legislation on occupational health and safety but requested that the next report confirmed this (Conclusions 2017).

The Committee notes from the Governmental Committee report concerning Conclusions 2017 (GC (2018)24) that the national legislation on the situation of the self-employed was being drawn up but there is no information on whether any regulation was adopted.

No information has been provided on the issues requested. Therefore the Committee concludes that it has not been established that self-employed workers are protected by occupational health and safety regulations.

Consultation with employers' and workers' organisations

In its previous conclusion, the Committee asked whether the social partners were also involved in drawing up the regulations on the scope of the risks covered and the levels of prevention and protection and whether they were involved in the draft Government decisions. The Committee also requested the next report to provide updated information on how employers' and workers' organisations were consulted in the preparation of regulations on health and safety at work (Conclusions 2017).

The report does not provide any information on this point. The Committee accordingly reiterates its request and considers that if the information requested is not provided in the next report, there will be nothing to establish that the situation in Moldova is in conformity with Article 3§2 of the Charter on this point.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 3§2 of the Charter on the grounds that it has not been established that:

- there are occupational health and safety regulations covering psychosocial risks;
- levels of prevention and protection required in relation to the establishment, alteration and upkeep of workplaces are in line with the international reference standards;
- self-employed workers are protected by occupational health and safety regulations.

Article 3 - Right to safe and healthy working conditions

Paragraph 3 - Enforcement of safety and health regulations

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

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 conclusions, the Committee concluded that the situation in Moldova 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

In its previous Conclusions, the Committee reiterated that, because it entrusted employers with the investigation of most accidents at work, the accidents at work reporting system might favour concealment of such accidents in practice and was not efficient with regard to Article 3§3 of the Charter (Conclusions 2017). Subsequently, the Governmental Committee (31 January 2019 GC(2018)24) also expressed concern that employers could themselves conduct inquiries into occupational accidents, however serious they were. It voted on and adopted a warning and asked the Moldovan authorities to bring the situation into line with Article 3§3 of the Charter.

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.

In the previous Conclusions, the Committee noted that incidence rates of accidents at work and fatal accidents have continued to decrease in overall terms since 2013. The Committee requested that the next report provide information on measures taken to reduce the high number of accidents at work and the number of fatal accidents, and to counter potential under reporting of accidents at work in the practice.

The report indicates that the number of people injured at work increased (371 in 2016, 448 in 2017, 503 in 2018 and 493 in 2019). Given that the total labour force in Moldova has decreased since 2015 (1,052,863 in 2015 and 929,853 in 2019 according to the World Bank data), the rate of fatal accidents is still excessive. The number of fatal accidents at work also increased during the reference period (29 in 2016, 41 in 2017, 38 in 2018 and 36 in 2019). ILOSTAT data confirm the trend with regard to the number of fatal accidents and indicate the corresponding incidence rate (per 100,000 workers): 4.9 in 2016, 6.8 in 2017, 6.2 in 2018 and 5.8 in 2019.

The report indicates that pursuant to Article 23 of the Law on Safety and Health at Work no. 186/2008, 10 competent authorities in the field of occupational safety have been empowered with sanctions in the field of occupational safety and health with 44 inspectors. The Committee takes note of this information which was already submitted to the Governmental Committee (GC(2018)24). However, the Committee observes that under this provision, the duty to observe the regulations in the Act still remains with the employer (1st paragraph) and it appears that no amendment has been introduced to this Act following the meeting of the Governmental Committee in 2019 (GC(2018)24). For the Committee, it remains unclear who undertakes investigations concerning accidents at work.

The report limits its submission to state that in accordance with the provisions of Law no. 186/2008, in January 2020, training courses were organised for border guards within the structural subordinated and regional subdivisions of the General Inspectorate of Border Police (GIBP), in the field of ensuring safety and health at work. Order no 111/2020 on the designation of border guards responsible for the activities of protection and prevention of occupational risks in the General Inspectorate of Border Police and the Border Police Sector Chisinau International Airport and Order no 395/2020 on the approval of the assessment of the risks of illness and occupational injury at work were issued by the GIBP. Accordingly, in December 2017, training courses were organised in the field of safety and health and 153 personal training sheets were drawn up.

The Committee reiterates its request that the next report provide information on coercive measures taken (i) to prevent accidents at work and (ii) to counter potential under reporting of work accidents in practice on the basis of the considerations of the Governmental Committee (GC-2018)24). Pending receipt of this information, the Committee concludes that there is nothing to establish that accidents at work are being monitored effectively.

Concerning occupational diseases, in its previous conclusions, the Committee asked that the next report provide information on the legal definition of occupational diseases; the mechanism for recognising, reviewing and revising of occupational diseases (or the list of occupational diseases); the incidence rate and the number of recognised and reported occupational diseases during the reference period (broken down by sector or activity and year), including cases of fatal occupational diseases, and the measures taken and/or envisaged to counter insufficiency in the declaration and recognition of cases of occupational diseases; the most frequent occupational diseases during the reference period, as well as the preventive measures taken or envisaged (Conclusions 2017). The Committee also considered that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Moldova is in conformity with Article 3§3 of the Charter.

The report does not contain any information in respect of the questions raised by the Committee in the previous report. Therefore, there is nothing to establish that occupational diseases are monitored effectively.

Activities of the Labour Inspectorate

In its previous report, the Committee noted a sharp reduction in the number of reports of offences filed with the courts in 2013 and 2014 and therefore invited the Government to comment on this point. It also asked for information on the outcomes of the reports filed with the courts (decisions, fines or other penalties imposed). The Committee also asked for information on the outcomes of the co-operation between the Labour Inspectorate and the National Confederation of Employers and the National Confederation of Trade Unions in respect of occupational health and safety. The Committee also noted, in the previous conclusions, that the number of inspections conducted by the Labour Inspectorate, including scheduled visits, and the number of workers covered by the inspections increased. Nevertheless, given that the law entrusts the investigation of most accidents at work to

employers, the Committee concluded that the labour inspection system was not efficient with regard to Article 3§3.

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 indicated a decrease in the number of labour inspectors with inspection duties: 77 in 2016, 73 in 2017, 43 in 2018 and 42 in 2019 and in the allocated financial resources to the Labour Inspectorate: 651,233 € in 2016, 735,788 € in 2017, 440,682 € in 2018 and 538,771 € in 2019. The total number of inspections carried out also decreased (4,458 in 2016, 3,479 in 2017, 2,317 in 2018 and 1,963 in 2019). There is a decrease also in the number of inspections relating to occupational health and safety (2,092 in 2016 and 732 in 2017). The agencies indicated in Article 23 of the Law on Safety and Health at Work no. 186/2008 carried out 21 inspections relating to occupational health and safety in 2018 and 1,116 inspections in 2019. The number of employees monitored also decreased during the reference period, from 147,000 in 2016 to 103,000 in 2019. The number of breaches found in the field of occupational safety and health was 26 in 2018 and 9,925 in 2019. The report does not provide further information on the points raised by the Committee. In addition, the report does not provide any information concerning the question raised by the Committee as to whether inspectors are entitled to inspect all workplaces, in all economic sectors. The Committee therefore reiterates its previous finding of non-conformity.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 3§3 of the Charter on the grounds that it has not been established that:

- accidents at work and occupational diseases are monitored effectively.
- the activities of the Labour Inspectorate are effective in practice.

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 the Republic of Moldova. It also takes note of the information contained in the comments submitted by the Coalition for Inclusion and Non-Discrimination (“CIN”) on 29 June 2021, and of the Government’s reply to these comments submitted on 20 August 2021.

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 the Republic of Moldova was not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality rates have been insufficient (Conclusions 2017). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and to the targeted questions.

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

Measures to ensure the highest possible standard of health

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 Committee notes that, according to the data provided by the National Office of Statistics, the average life expectancy for both sexes was 70.9 years in 2019 (a slight increase from 69.9 years in 2016). The same data shows that life expectancy for men was 66.8 years in 2019 (compared to 65.7 years in 2016), while life expectancy for women was 75.1 years in 2019 (compared to 74.2 years in 2016).

The Committee observes that the average life expectancy rate is 10 years shorter than the EU average (81.3 in the EU-27 in 2019) and still very low relative to other European countries. Moreover, the gender gap is very high as men live 8 years less than women.

The report does not provide information on life expectancy across distinct ethnic groups and minorities, longer term homeless or unemployed, as well as information on prevalence of particular diseases among relevant groups, thus the Committee reiterates this request for information.

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

The Committee notes that infant mortality has decreased slightly since the previous reference period, from 13.4 deaths per 1,000 live births in 2015 to 12.4 deaths in 2019 according to the World Bank data. The current report indicates that infant mortality (number of deaths per 1,000 live births) was 8.9 in 2016, 9.2 in 2017, 9.1 in 2018 and 8.7 in 2019 (provisional data provided by the Public Services Agency). The Committee takes note of these fluctuations and considers that the rate is still high relative to other European countries (for example, the EU-27 rate in 2019 was 3.4 per 1,000 live births).

As regards the maternal mortality rate, the Committee notes that, according to the World Bank data, the rate decreased from 22 deaths per 100,000 live births in 2015 to 20 in 2016 and to 19 in 2019. The current national report indicates that according to data of the National Agency for Public Health, maternal mortality was 17.5 in 2016, 16.4 in 2017, 14.4 in 2018 and 15.6 in 2019 (provisional). This rate is also considerably above the average in other European countries (EU average was 6 deaths per 100,000 live births in 2017).

In reply to the Committee's targeted question on sexual and reproductive healthcare services for women and girls, the report indicates that the national programme on health and sexual and reproductive rights for the years 2018-2022, approved by the Government's Decision no. 681/2018, pursues the objectives of: (i) increasing access to sexual and reproductive health services for the whole population, (ii) providing quality services focused on the needs and rights of beneficiaries and (iii) accessing adequate education and information on sexual and reproductive health for the population, and their rights in this area. Sexual and reproductive health services are provided at the levels of healthcare: primary healthcare, specialised outpatient healthcare and hospital care, both in the public and private sectors.

The Committee takes note of the reforms initiated and measures taken with regard to sexual and reproductive health. It asks that the next report provide information on the implementation of such measures, their effect on reducing maternal and infant mortality rates, updated data regarding the trends in the mortality rates and on any developments in this field.

However, the Committee notes that both infant mortality and maternal mortality rates remain high (above the rates in other European countries) despite the measures taken. The Committee considers that the prevailing high infant and maternal mortality rates, examined together with the comparatively low life expectancy rate, show that the situation in the Republic of Moldova is still below the average in other European countries, and point to weaknesses in the health system. It finds that insufficient efforts and progress have been made in this field and therefore maintains its conclusion of non-conformity on this point.

Access to healthcare

The Committee previously took note of the Ministerial Orders designed to develop medical services and had asked to be kept informed on their implementation and, more generally, on any healthcare reforms pursued (Conclusions 2013; Conclusions 2017). The Committee also asked that the next report provide information on the measures taken to increase the number of doctors, particularly in rural areas (Conclusions 2013; Conclusions 2017). It pointed out that if the information requested was not provided, there would be nothing to establish that the situation was in conformity with the Charter in this respect (Conclusions 2017). The report does not provide the requested information. In the absence of such information, the Committee concludes that the situation in the Republic of Moldova is 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 effectively guarantee the right of access to healthcare.

The Committee recalled that the right of access to care requires *inter alia* that the cost of healthcare should be borne, at least in part, by the community as a whole (Conclusions I (1969), Statement of Interpretation on Article 11) and the cost of healthcare must not

represent an excessively heavy burden on the individual (Conclusions 2017). Out-of-pocket payments should not be the main source of funding of the health system (Conclusions 2013, Georgia). Steps must therefore be taken to reduce the financial burden on patients, in particular those from the most disadvantaged sections of the community (Conclusions XVII-2 (2005), Portugal).

In its previous conclusion, the Committee requested information on the following:

- total expenditure on healthcare, as a proportion of the GDP;
- the proportion of health expenditure payable by patients, including payments for pharmaceuticals (out-of-pocket payments);
- the proportion of direct expenditure attributable to informal payments, the frequency of informal payments and whether informal payments are common practice in the Republic of Moldova (Conclusions 2017).

The report does not provide the requested information. The Committee reiterates its questions and reserves its position on this point.

The Committee also requested information about the rules that apply to the management of waiting lists, and statistics on average waiting times for inpatient/outpatient care, primary care, specialised care and surgical operations (Conclusions 2017). In the absence of such information in the report, the Committee reiterates its question and reserves its position on this point.

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

The report provides information on measures taken in this field, such as the creation of a network of 41 youth-friendly centres, the reimbursement of the cost of contraceptives since 2015, information and education activities regarding family planning and contraception, safe sexual behaviour, prevention of unsafe abortion, provision of free counselling and contraceptives, etc.

The Committee notes that, according to the comments submitted by the Coalition for Inclusion and Non-Discrimination (CIN), not all forms of modern contraception for women are available on the pharmaceutical market in the Republic of Moldova. The same comments state that there is a lack of patches, implants and condoms for women as well as progesterone-based contraceptives. According to CIN, the access of sexually active young people to contraceptive methods and information on reproductive sexual health is affected by their geographical location and the professionalism of the family doctor. Often the lack of internet access in rural areas deprives young people of access to information published on the internet pages of the Youth Friendly Health Centers. The contraceptives are issued only by the family doctor and only at the personal request, or with the minor's legal representative consent. CIN draws the attention that obtaining the informed consent of the legal representative is sometimes legally and physically impossible especially in the context of migration when minors often grow up with adult relatives rather than with their parents, without the legal guardianship of the minor having been legally granted.

In its reply, the Government indicates that the Ministry of Health, Labour and Social Protection (MHLSP) aims to take measures in order to ensure the access to modern methods of contraception through the National Programs (by considering the possibility to include the products listed by CIN in the National Program on sexual and reproductive health and rights for 2023) and to ensure the access of population to modern methods of contraception through pharmacies (by examining the possibility of authorising patches and condoms for women as a priority). It also states that the Ministry of Health, Labor and Social Protection approved the Regulation on the provision of contraceptives to the population of vulnerable groups of reproductive age by Order No. 555/2020 "On the provision of

contraceptives to the population of vulnerable groups of reproductive age" (outside the reference period).

The Government further states that contraceptives, including emergency contraception in cases of sexual violence, are provided to adolescents in the Republic of Moldova by family doctors, Youth Friendly Health Centers (Youth Klinici) in most cases and family planning clinics. At the Youth Friendly Health Centers, adolescents and young people up to the age of 24 can receive contraceptives free of charge upon request. It also states that contraceptive products, including emergency contraception, are sold in pharmacies and are dispensed without a prescription and/or a request of showing an ID document.

The Committee asks for information on the measures taken to ensure that women and girls have access to modern contraception, including in rural areas. The Committee further asks clarification on the legal conditions and requirements for a minor in accessing modern contraception and whether the informed consent of legal representative is required. It also asks for information on the proportion of the cost of contraceptives that is not covered by the State (in cases where the cost is not fully reimbursed by the State).

The report does not provide information on access to abortion. The Committee thus asks the next report to provide information on access to abortion. The Committee also asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part.

The report provides statistical information about early motherhood. For example in 2019, there were 48 live births to mothers under 16 years of age, 143 live births to mothers of 16 years of age, 347 live births to mothers of 17 years of age, and 535 live births to mothers of 18 years of age. The Committee asks that the next report provides updated statistical data on early motherhood.

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 does not

contain any information on this matter. The Committee asks that information be provided in the next report on the measures taken to ensure informed consent to health-related interventions or treatment.

Covid-19

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

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

The report indicates that primary healthcare services were adapted to the new conditions of activity, in order to ensure the control and prevention of the coronavirus infection (Covid-19).

The Ministry of Health, Labour and Social Protection made it a priority to ensure access of the population to medical assistance in conditions of emergency. The report provides information on the measures taken to ensure access to medical services in safe conditions in cases when medical care cannot be postponed and cannot be provided remotely; inform the population of the changing situation; inform the older persons and people with disabilities on the need to self-assessment; inform on mental health issues due to the context of Covid-19, etc.

The report adds that the procedure for ensuring the continuous treatment of people with chronic diseases, especially older persons, or persons with disabilities was clearly established. For patients with cancer, the observance of treatment plans and their deadlines were maintained. Scheduled dental care was suspended, both in public and private institutions, with the exception of emergency dental care.

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 also 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 the Republic of Moldova is not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality rates have been insufficient;

- it has not been established that sufficient 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 the Republic of Moldova. It also takes into consideration the information given in the comments submitted by the Coalition for Inclusion and Non-Discrimination (CIN) on 29 June 2021.

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 (Conclusions 2017), the Committee found that the situation in the Republic of Moldova was not in conformity with Article 11§2 of the Charter on the grounds that it had not been established that:

- screening for diseases responsible for high levels of mortality was available to the population as a whole;
- there was free medical supervision during schooling.

Education and awareness raising

In its targeted questions, the Committee asked for information about health education (including sexual and reproductive health education) and related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in the community, on a lifelong or ongoing basis, and in schools. The report does not contain any information in this respect. Therefore, the Committee reiterates its questions. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in the Republic of Moldova is in conformity with Article 11§2 of the Charter in this respect.

As regards sexual and reproductive health education, the report indicates that the National Programme on Sexual and Reproductive Health and Rights was launched on 24 May 2018 for the 2018-2022 period. The Committee notes that this programme aims to ensure universal access to sexual and reproductive health services, improve the quality of health care, as well as ensure that the population has access to adequate education and information about their health and rights in this area at all stages of life. The Committee asks that information be provided in the next report on the implementation of this programme in practice.

The report also indicates that since 2019, an elective subject for grades V-XII has been reintroduced into the curriculum which provides a separate module on reproductive health. In addition, research is periodically undertaken to assess sexual behaviour among adolescents and young adults, and to evaluate the relevance of existing compulsory curriculum subjects (e.g., biology and civic education) with comprehensive sexuality education. Joint training and information sessions are regularly organised on various aspects of adolescent health at the local level, with the involvement of school and community resources, and members of the Youth Friendly Health Centres. Nationally, activities are supported to implement a health-promoting school approach (piloted in 22 schools), to develop school health promotion plans for pupils and teachers, and to include a health and sex education component.

The Committee takes note of the information provided by the Coalition for Inclusion and Non-Discrimination (CIN) on 29 June 2021 according to which in Moldova, access of young people to information on reproductive sexual health is conditioned by their geographical location and the family doctor’s professionalism, both often being major obstacles in

achieving the right to health protection for young people, especially girls. According to this report, Youth Friendly Health Centres are the safest and most accessible places for sexually active young people if they are at a fair geographical distance. However, the lack of internet access in rural areas deprives young people of access to information published on the internet pages of these Centres. The Committee observes from this report that sex education remains an optional subject in the school curriculum and though it competes with the history of religions, it should be given priority at the management level of educational institutions. The Committee requests comments on this information in the next report. In the meantime, it defers its position on this issue.

In its targeted questions, the Committee also asked for information about awareness and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. The report does not contain the information requested. Therefore, the Committee reiterates its request. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in the Republic of Moldova is in conformity with Article 11§2 of the Charter in this respect.

Counselling and screening

In its previous conclusions, the Committee found that the situation was not in conformity with Article 11§2 on the ground that it had not been established that screening for diseases responsible for high levels of mortality was available to the population as a whole (Conclusions 2017, 2015, 2013 and 2009). The report does not contain any information in this respect. In view of the repeated lack of information, the Committee reiterates its finding of non-conformity on this point.

In its previous conclusion, the Committee also found that the situation was not in conformity with Article 11§2 on the ground that it had not been established that there was free medical supervision during schooling (Conclusions 2017). The report does not contain any information on this subject. In view of the lack of information, the Committee also reiterates its finding of non-conformity on this point.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that:

- screening for diseases responsible for high levels of mortality is available to the population as a whole;
- there is free medical supervision during schooling.

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 the Republic of Moldova.

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

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

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

In its previous conclusion, the Committee concluded that the situation in the Republic of Moldova was not in conformity with Article 11§3 of the Charter on the grounds that adequate measures protecting the population from the risks of asbestos were not in force and that the measures taken to ensure smoke-free environments in public places were insufficient (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 states that healthcare is dispensed in facilities located within the penitentiary system and placed under the authority of the Ministry of Justice. External facilities provide emergency or specialised treatment. The report also provides information regarding staffing levels in penitentiaries. The Committee takes note that the penitentiary system is covered by the general action plans for combating communicable diseases, such as the National Tuberculosis Control Program 2016-2020 or the HIV Prevention Program 2016-2020, which include measures of prevention, screening, and treatment.

The Committee notes that the latest European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment report on the Republic of Moldova (CPT, 2020) highlighted several problems, including the inadequate levels of healthcare staffing, as well as the substandard mental health arrangements. The Human Rights Committee (Concluding Observations 2017) and the Ombudsman, performing the function of NPM (Annual Report 2018), have expressed similar concerns.

In light of the foregoing, the Committee asks for information on the measures taken to address healthcare staffing shortages and to improve mental healthcare in prisons.

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 describes some of the outcomes of an ongoing project to reform the mental health sector in Moldova, carried out with international assistance. The report notes that 40 community mental health centres have become operational to date. During 2019, approximately 214,000 individuals received assistance within this framework, and 4,000 home calls were made. The report also mentions several awareness raising and empowerment initiatives conducted during the reference period in this context. The Committee asks for information on the implementation and impact of the above mental health reform project, and on measures taken with a view to ensuring its long-term sustainability.

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.

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 outlines the contents of the National HIV/AIDS Control and Prevention Program 2016-2020 and of the draft HIV Control and Prevention Program 2021-2025, without providing any other information in response to the targeted question.

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

Healthy environment

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

In its previous conclusion, the Committee noted the deterioration of the indicators on air, soil and water quality recorded during the reference period, and asked for information on the measures taken to address these issues, and on the levels of air pollution, contamination of drinking water and food intoxication (Conclusions 2017). The Committee reserved its position on this issue in the meantime.

The Committee notes that the information requested with regard to the environment is not provided and asks for it to be provided in the next report. Namely, the Committee asks 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 measures taken to address the health problems of the populations affected, and about measures taken to inform the public, including pupils and students, about general and local environmental problems. Meanwhile, the Committee concludes that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to overcome environmental pollution.

In its previous conclusion, the Committee made a finding of non-conformity with Article 11§3 of the Charter on the ground that adequate measures protecting the population from the risks of asbestos were not in place (Conclusions 2017). The Committee also asked for clarification as to whether the use of asbestos in construction materials was prohibited or regulated, as well as for information on the results achieved in reducing the exposure of the population to asbestos.

The Committee notes that a law adopted during the reference period (Law no. 141/2016) banned some, but not all types of asbestos, and that in fact the type of asbestos most prevalent in the Republic of Moldova, chrysotile, remains widely available.

The Committee notes that the information requested is not provided and asks for it to be provided in the next report. Namely, the Committee reiterates its request for clarification as to whether the use of asbestos in construction materials is prohibited or regulated, as well as for information on the results achieved in reducing the exposure of the population to asbestos. Meanwhile, the Committee reiterates its conclusion that the situation is not in conformity with Article 11§3 of the Charter on the ground that adequate measures protecting the population from the risks of asbestos are not in place.

Immunisation and epidemiological monitoring

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

The Committee notes that the information requested is not provided.

Tobacco

In its previous conclusion, the Committee found a situation of non-conformity with Article 11§3 of the Charter on the ground that the measures taken to ensure smoke-free environments in public places were insufficient (Conclusions 2017). In reaching this

conclusion, the Committee took note of the ongoing lack of clarity around the question of whether tobacco was banned in all public places, and of persistently high smoking rates.

The Committee notes that the information requested is not provided and asks for it to be provided in the next report. Namely, the Committee asks for clarification about the scope of the ban on smoking in public places, and on trends with regard to the use of tobacco products (among adults and young people). Meanwhile, the Committee reiterates its conclusion that the situation is not in conformity with Article 11§3 of the Charter on the ground that the necessary measures were not taken to ban smoking in public places .

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 the question of preventive measures in the context of the Covid-19 pandemics.

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

Conclusion

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

- it has not been established that adequate measures were taken to overcome environmental pollution;
- adequate measures protecting the population from the risks of asbestos are not in place;
- the necessary measures were not taken to ban smoking in public places.

Article 12 - Right to social security

Paragraph 1 - Existence of a social security system

The Committee notes that the report does not provide any information regarding this provision of the Charter. Therefore, it reiterates its previous finding of non-conformity.

Conclusion

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

- it has not been established that the existing social security schemes cover a significant percentage of the population;
- the minimum unemployment benefit is inadequate;
- the minimum old-age pension is inadequate;
- the minimum sickness benefit is inadequate.

Article 12 - Right to social security

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

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

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

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

The Committee also notes that the Republic of Moldova has not ratified any of the following conventions of the International Labour Organisation (ILO): No. 102 on social security (minimum standards), No. 121 on employment injury benefits, No. 128 on invalidity, old-age and survivors' benefits, No. 130 on medical care and sickness benefits or No. 168 on employment promotion and protection against unemployment.

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

The Committee notes that the Government report does not provide relevant information to enable it to assess the situation (cf. Conclusion 2021 on Article 12§1).

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 12§2 of the Charter on the ground that it has not been established that the Republic of Moldova maintains a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

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 the Republic of Moldova.

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 (Conclusions 2017), the Committee found that the situation in the Republic of Moldova was not in conformity with Article 12§3 of the Charter on the ground that efforts made to progressively raise the system of social security to a higher level were inadequate. It noted that the Government had failed to provide any information by means of which to assess the situation and asked for information in the next report on any relevant changes made to the social security system during the reference period, specifying the effect of these changes on the personal scope and the minimum level of income replacement benefits. The Committee’s assessment will relate therefore to the information provided by the Government in response to its finding of non-conformity and the two targeted questions with regard to Article 12§3 of the Charter, namely:

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

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

Development of the social security system

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

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

The Committee notes that in its report, the Government does not provide any information on any relevant changes to the social security system during the reference period. Given this, the Committee considers that it has not been demonstrated that measures have been taken to improve the social security system. It repeats its request for information in the next report on any relevant changes made to the social security system during the reference period, specifying the effect of these changes on the personal scope and the minimum level of income replacement benefits.

Platform workers

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

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

The Committee notes that the Government has not provided any information concerning the social security coverage of digital platform workers. The Committee therefore repeats its question. It asks for information in the next report on the number of digital platform workers (as a percentage of the total number of workers), their status (employees, self-employed and/or other category), the number/percentage of these workers by status and their social security protection (by status). In the meantime, the Committee reserves its position on this point.

Covid-19

With regard to the second targeted question, the Government describes the measures taken in 2020 by the National Social Insurance House in response to the Covid-19 crisis. These measures included:

- payment of a survivor’s allowance to close family members (the surviving spouse, one of the parents, or children up to the age of 18 or, for those in higher education, 23) of medical staff who have died as a result of work carried out in the fight against Covid-19;
- payment of a single unemployment benefit to persons who lost their job because of the pandemic and were registered as unemployed persons during the state of emergency (17 March to 15 May 2020) and to entrepreneurs over the same period;
- an increase in unemployment benefit to bring the amount up to that of the single unemployment benefit (MDL 2,775, approximately €137) during the state of emergency;
- payment of a single unemployment benefit (MDL 2,775 maximum) to entrepreneurs and to some categories of natural person (e.g. persons working in the trade and retail sector) who had to stop work between 16 May and 30 June 2020 in accordance with the decisions of the Extraordinary National Public Health Commission.

Conclusion

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

Article 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 the Republic of Moldova.

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

Right to equal treatment

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

According to the report, the agreements in the field of social security concluded by the Republic of Moldova are based on the European principles established in Regulation (EC) No. 883/2004 on the coordination of social security systems, which include the principle of equal treatment. According to the provisions of the Law on the public social insurance system the insured is a natural person fit for work, domiciled or residing in the Republic of Moldova. The legislation in force in the field of social insurance does not distinguish between citizens of the Republic of Moldova and foreign citizens, working and insured in the Republic of Moldova. The Committee asks whether the legislation also ensures equal conditions for entitlement to social security benefits.

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

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

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

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

The Committee notes from MISSCEO that the condition for entitlement to child benefit is that the child's legal and habitual place of residence is Republic of Moldova. The Committee has previously noted (Conclusions 2017, Article 16) that with regard to equal treatment of foreign nationals regarding family allowances, foreign nationals holding a residence permit, whether it be permanent or temporary have the same rights and obligations in the field of compulsory insurance as citizens of the Republic of Moldova. However, the Committee noted that family allowances are only granted to nationals of States Parties bound to the Republic of Moldova by a bilateral agreement. The Committee asks whether child benefit is paid to all resident children, irrespective of the bilateral agreement between Moldova and the country of origin. In the meantime, it reserves its position on this point.

Right to retain accrued rights

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

According to the report, Moldova has concluded bilateral agreements in the field of social security with 14 states. These agreements protect the person in case of insured social risks, such as, as the case may be: old age, temporary or permanent incapacity for work, loss of earner, unemployment and death and grant the person the right to benefit from the following benefits: retirement pension, disability, survivor, disability benefits due to accidents at work or occupational diseases, benefits for temporary incapacity for work and maternity (depending on agreement), childbirth and childcare allowances up to the age of 3 (depending on agreement), death and unemployment benefits (depending on agreement). The final objective of the treaties is for migrant workers from the Republic of Moldova who have worked abroad for a period of time, when reaching the retirement age, to receive a pension from that state and, at the same time, during the activity period to be insured with an income in the form of social benefits in the event of an accident at work or an occupational disease, or the insurance of family members in the event of the death of the earner.

According to the report, the National Social Insurance House (NSIH) applies four agreements to guarantee the rights in the field of pension insurance, based on the principle of territoriality, according to which after relocation, the person will benefit from social benefits in the state of permanent residence and according to its legislation. NSIH also applies 14 agreements in the field of social security, based on the principle of proportionality, according to which each contracting state to the agreement pays the part of the pension calculated for the contribution period to the public social insurance system made in its own territory. The Committee asks how export of benefits is ensured in the absence of a bilateral agreement.

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.

The Committee notes from the report that the agreements concluded between Moldova and 14 States Parties envisage accumulation of insurance periods. When calculating the social security rights, both the insurance periods completed in the state of domicile and the periods completed in the other state are taken into account. The Committee asks how the maintenance of accruing rights is guaranteed in the absence of agreements.

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 the Republic of Moldova.

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 Moldova is not in conformity with Article 13§1 of the Charter on the grounds that: the level of social assistance paid to a single person without resources, including elderly persons is not adequate; and that the right to medical assistance is not guaranteed to all persons without resources.

General legal framework, types of benefits and eligibility criteria

The Committee notes from the report that Moldova implements the Social Assistance Program, which aims to ensure a guaranteed minimum monthly income for disadvantaged families by providing social assistance established in accordance with the assessment of the average monthly global income of each family and its need for social assistance. Currently, this National Program has two basic components – social assistance and aid for the cold period of the year (APRA). The social assistance / aid mechanism for the cold period of the year is built on several basic elements. To become a beneficiary of social assistance / aid for the cold period of the year, the family must: a) achieve a monthly income lower than the minimum monthly income guaranteed by the state;; b) the occupational status of the adult family members to be in accordance with art. 5 of the Law on social assistance. c) the score calculated for the indicators of family well-being and family characteristics (proxy test) to be less than or equal to 88.46% (91.28 starting on 01 January 2021). Only in case of cumulative fulfilment of these conditions, the household will be granted the right to social assistance or aid benefits for the cold period of the year, based on the application submitted with the necessary set of documents.

The monthly amount of social assistance is established as the difference between the minimum guaranteed monthly income (VLMG) of the family and its overall income.

The report also states that the amount of social assistance depends on the composition of the family and its structure, as well as on the overall income of the family, calculated in accordance with the legislation in force, and differs from one family to another. Unlike social assistance, the aid for the cold period of the year is a fixed monthly payment, in cash, granted to the family for the months of January-March and November-December. Currently, its amount is MDL 500 per month. By the same request, the directorate / section of social assistance and family protection examines the possibility of granting the right to both benefits. In addition, social services are an important component of the social assistance

system. The right to social services is established individually, based on the assessment of the needs of the person / family of these services. They are intended to mobilize the community in the formation of effective and sustainable mechanisms for reducing / resolving the difficult situations in which disadvantaged people / families find themselves and ensuring social integration, as well as preventing their institutionalization.

Given that the Republic of Moldova has not accepted Article 23 of the Charter (the right of elderly people to social protection), the Committee assesses the level of non-contributory pensions paid to a single elderly person without resources under this provision. The report does not contain information on this issue, but the Committee refers to its conclusion under Article 12§1, where it considered that the minimum old-age pension is inadequate.

Level of benefits

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

- Basic benefit: The Committee notes that the level of minimum guaranteed monthly income stood at lei 1 107 (€ 53) on 1 January 2020. According to MISSOC, in 2018 it stood at lei 1 025 (€ 49).
- Additional benefits: the winter-time monthly allowance amounted to lei 500 (€ 24).
- Medical assistance: in its previous conclusion (Conclusions 2017) the Committee observed that the right to medical assistance should not be confined to emergency situations. The Committee considered that the right to medical assistance was not guaranteed to all persons without resources in the meaning of this provision. The situation has not changed concerning access to other medical services outside emergency situations and therefore the Committee reiterates its conclusion of non-conformity.
- Poverty threshold: the Committee notes from the National Bureau of Statistics that in 2018, the size of the absolute poverty line constituted 1 998,4 lei (€ 93,68) per month. It stood at 1 819,2 lei (€ 86) per month in 2016, so there has been an increase.

The Committee notes that the level of social assistance has been raised on several occasions. However, the level of assistance 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 report does not provide any information on this point. The Committee reiterates its question and asks the next report to provide updated information as regards the right of appeal and legal aid. *If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter.*

Personal scope

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

Foreign nationals lawfully present in the territory

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

The report does not contain specific reply concerning the equal treatment of nationals of States Parties lawfully resident in Moldova as regards entitlement to social and medical

assistance. The Committee reiterates its question and asks the next report to provide updated information on this point. If this information is not provided in the next report, there will be nothing to establish that the situation is conformity with the Charter.

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 (including medical condition). 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 indicates that migrants and their families, as well as asylum seekers, including disabled people, pregnant women, the elderly, victims of human trafficking, victims of torture, people suffering from serious illnesses benefit from the package of medical services which are offered to uninsured persons until the moment of employment, when change his/her status to that of an insured person. However, there is no information about foreign national in an irregular situation.

The Committee asks the next report to confirm that the legislation and practice comply with these requirements.

Medical and social assistance during the Covid-19 pandemic

The Committee takes note the report refers to a number of steps taken during the Covid-19 pandemic. There has been an increase in the amount of benefits during the state of emergency, and also a significant increase of families receiving social assistance. In April 2020, at least 75,700 families (27753 families more) benefited from at least one social assistance payment – the average size of the benefit was 1121 lei, compared to March (47947 families and 822,69 lei). Out of 75,700 families receiving social assistance, about 20,000 are families with children (about 42,100 children), compared to 15,700 families in March (34,900 children). For the payment of social assistance 77.6 million lei were transferred in April 2020, in May 76.3 million lei.

Moreover, additional support measures for people in difficulty, as well as specialists in the field have been introduced, including various online trainings were organized on personal protective equipment and use of protective equipment; safety and health at work; supporting the well-being of staff in the field of home care; organizing and mobilizing volunteer actions in home care.

In addition, in order to facilitate the provision of social assistance measures at local level, various informative materials and recommendations have been developed. During the state of emergency, social service providers, territorial social assistance structures and public social assistance institutions and private social service providers continued to operate in compliance with public health measures. There have been family visits to ensure the intervention at the beneficiary's home, involving NGOs and practitioners to coordinate the psycho-emotional support of children, adolescents and adults and the elderly. At the same time, a multitude of volunteer actions are being developed by authorities and various non-governmental organizations, including development partners on information, social, psychological and product support for disadvantaged people.

In an annex to the report, there is a reference to other measures taken, for example, prolonged access to unemployment benefits, increased access to sickness benefits, economic support for parents of children affected by Covid-19, etc.

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 the Republic of Moldova is not in conformity with Article 13§1 of the Charter on the grounds that:

- the level of social assistance paid to a single person without resources, including the elderly persons, is not adequate;
- the right to medical assistance is not guaranteed to all persons without resources.

Article 13 - Right to social and medical assistance

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

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”). However, no targeted questions were posed in respect of Article 13§2 of the Charter. The Committee deferred its previous conclusion. It will therefore restrict its consideration to the Government’s replies to its previous request for relevant complementary information.

In its previous conclusion (Conclusions 2017) the Committee took note that there was no information on the issues covered by this Article. It asked whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights prohibit discrimination in relation to the enjoyment of those rights on the basis of receipt of social and medical assistance. It also asked whether the provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

The Committee notes that the report contains no specific information on Article 13§2 of the Charter. It states nevertheless that according to the provisions of Law No. 123/2010 on social services, the provision of social services is based on the principle of equal opportunity, which provides for ensuring the right to social services to all disadvantaged persons / families in conditions of equal treatment and without discrimination. In order to support disadvantaged families (during the state of emergency), additional measures to support disadvantaged families through the Social Assistance Program were approved. At the same time, the provisions regarding the accomplishment of activities of community interest and the verification at the current residence of the applicant/beneficiary; the authenticity of the information presented in the application for social assistance, as well as the verification at the current residence of the beneficiary of the correct use of social assistance were not implemented.

The Committee recalls that under Article 13§2 of the Charter any discrimination in terms of their enjoyment of social and political rights against persons receiving social and medical assistance that might result – directly or indirectly – from an express legal provision must be eradicated in law and in practice. In the absence of the relevant information, the Committee notes that there is nothing to establish that the situation is in conformity with Article 13§2 of the Charter.

Conclusion

The Committee concludes that the situation in Moldova is not in conformity with Article 13§2 of the Charter on the ground that it has not been established that there is no discrimination in the effective exercise of social and political rights.

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

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

The Committee recalls that Article 13§3 concerns services offering free personal assistance and counselling as may be required to prevent, to remove, or to alleviate personal or family want. It further 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 scope of the thematic group “Health, social security and social protection”) However, no targeted questions were posed in respect of Article 13§3 of the 1961 Charter. The Committee deferred its previous conclusion (Conclusions 2017). It will therefore limit its examination to the Government’s replies to its previous request for relevant complementary information.

The Committee has previously recalled that, when assessing national situations in light of this provision, it specifically examines whether there are mechanisms in place to ensure that persons in need receive help and personal counselling services free of charge and whether the relevant services and institutions are sufficiently well distributed on a geographical basis. The Committee requested updated information on how these requirements were met in legislation and practice.

The Committee takes note of the detailed information provided concerning primary social services, social assistance programmes for disadvantaged families such as minimum guaranteed income, support measures for people in difficulty and rehabilitation treatment of persons suffering from COVID-19 complications. It notes that these services are not assessed under Article 13§3.

The Committee again recalls that Article 13§3 concerns only social or medical assistance in the form of advice or personal help to persons without, or liable to be without, adequate resources. It further notes that it has already previously (Conclusions 2013) requested information on the actual functioning of the services aimed at people without resources within the meaning of Article 13§3 of the Charter and whether the relevant services and institutions are adequately distributed on a geographical basis. The Committee has not yet received this information which would enable it to assess the situation. The Committee therefore reiterates its request and, in the meantime, considers that it cannot be established that the situation is in conformity with Article 13§3 of the Charter.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 13§3 of the Charter on the ground that it has not been established that there exists a mechanism to ensure that those in need may receive help and personal advice services free of charge and that such services and institutions are sufficiently well distributed on a geographical basis.