



March 2024

European Social Charter (REVISED)

European Committee of Social Rights

Conclusions 2023

MONTENEGRO

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, the Committee, the national reports as well as the Statement of interpretation on Article 17 adopted by the Committee during the supervision cycle can be found in the General Introduction to all Conclusions.

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 requested from the States Parties concerned the following provisions of the thematic group IV " Children, families and migrants ":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

The reference period was from 1 January 2018 to 31 December 2021.

The following chapter concerns Montenegro, which ratified the Revised European Social Charter on 3 March 2010. The deadline for submitting the 12th report was 31 December 2022 and Montenegro submitted it on 28 April 2023.

The Committee recalls that Montenegro was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, 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 the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2019).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If, in its previous conclusion (Conclusions 2019), the Committee concluded that the situation was in conformity, there was no examination in 2023.

Montenegro has not accepted the following provisions from the above-mentioned group: 7§10, 19§§1-10, 31§§1-3.

The conclusions relating to Montenegro concern 22 situations and are as follows:

- 15 conclusions of conformity: Articles 7§2, 7§§5-8, 8§§1-5, 19§§11-12, 27§§1-3.
- 7 conclusions of non-conformity: 7§1, 7§3, 7§4, 7§9, 16, 17§§1-2.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 7§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee has observed that many States’ legislation is in conformity with Article 7§1 of the Charter regarding the minimum age for employment. Nevertheless, the Committee is concerned about the situation in practice. There are data that suggest that in many countries there are significant numbers of children working illegally. However, there are few official data on the extent of the problem. Therefore, as targeted questions to the States, the Committee asked for information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. It also asked for information on the number of children actually working, as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally.

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was not in conformity on two grounds:

- the legislation on the prohibition of employment under the age of 15 is not enforced effectively;
- work done at home by children under the age of 15 is not monitored.

As regards the first ground of non-conformity, the Committee had previously (2019) noted that the Labour Inspectorate found children under 15 years of age working in the informal sector, but there were no sanctions for these situations as the Labour Inspectorate did not have the power to record cases of children under the age of 15 engaged in the informal economy. These children were removed from the inspected workplaces, and the employers received warnings reminding them of the ban on employing children under the age of 15. Frequent inspections were subsequently carried out to monitor employer compliance with the inspector’s warnings. There were no records of children under the age of 15 found working in the informal economy because the statutory regulations for inspections did not require such cases to be recorded.

The Committee now notes from the report that the Labour Inspectorate continuously monitors, among other things, whether employers are employing children during routine inspections in all economic sectors. Typically, under-age workers can be found during the summer tourist season for a total of two months. Irregularities found included minors employed without proper documentation, such as a signed employment contract, parental permission to work, or a medical certificate. In addition, the fines related to the employer’s failure to make a decision on shift work, which affected all workers, not just children. The majority of the children working were found in the hospitality business, retail establishments, trinket stalls, etc. rather than in dangerous and health-damaging jobs. Generally, it was family-run businesses that employed children.

In 2022, Montenegro’s centres for social work documented 66 cases of child beggars. The centres did not record any cases of minors being rescued from illicit work. The centres’ mission is to provide assistance and protection to children who have been found begging, and to cooperate with other appropriate institutions to reduce the frequency with which begging occurs. The centres for social work take the necessary protective measures within the limits of the law after examining each individual case. They take on not just the task of making sure children are secure, but also of providing them and their families with therapy services. The children receive referrals to other service providers in the social and child protection system,

in the public school system, and in the medical care system to help them in their continued reintegration into society.

The Committee considers that the information provided by the Government does not provide any evidence that the situation as regards the monitoring of the employment in light work of children under the age of 15 has improved in practice. Therefore, the Committee reiterates its previous finding of non-conformity.

As regards the second ground of non-conformity, the Committee notes that Article 20 of the Labour Law details the general and special requirements for employment. Two general requirements are stipulated: 15 years of age, and general medical fitness. All jobseekers in Montenegro are subject to these general conditions. The age of 15 years represents the age limit when a person acquires general legal capacity to work. The new provision in the Labour Law, which came into force on January 7, 2020, is an exemption for those who are still required to attend primary school and so cannot hold a job for as long as they attend primary school.

The Labour Inspectorate monitors compliance with the Labour Law and supervises the application of the General Collective Agreement, branch collective agreements, collective agreements with the employer and other by-laws, which regulate the field of labour relations, employment and occupational health and safety.

The Labour Inspectorate has not recorded any cases of minors under the age of 15 working. No one under the age of 15 is allowed to work in any capacity. The inspection team had no prior knowledge or indication that any work was being done in minors' homes. According to the report, the Constitution protects the right of every citizen to the inviolability of their home, and the home can only be entered with a court order. The issue of monitoring home-based work is therefore a complex legal matter.

The Committee considers that the Government has not provided any evidence that child domestic labour is monitored effectively by the social services. It therefore reiterates its previous finding of non-conformity.

Conclusion

The Committee concludes that the situation in Montenegro is not in conformity with Article 7§1 of the Charter on the grounds that:

- the legislation on the prohibition of employment under the age of 15 is not effectively enforced;
- work done at home by children under the age of 15 is not monitored.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

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

The Committee recalls that no targeted questions were asked for Article 7§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusosn 2019) the Committee found that the situation was not in conformity with Article 7§2 of the Charter on the ground that it had not been established that the legislation on the prohibition of employment under the age of 18 for dangerous or unhealthy activities is effectively enforced.

According to the report, the Laborr Inspectorate conducted a total of 11,369 inspections during the reporting period (8,107 in the areas of labor relations and employment and 3,262 in occupational health and safety), and they discovered a total of 3,958 irregularities. The report indicates that during the inspection, persons under the age of 18 were not found to be working at workplaces with particularly difficult physical tasks, or tasks that could have a harmful and increased risk of affecting their health.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 7§2 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 3 - Prohibition of employment of children subject to compulsory education

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

The Committee recalls that no targeted questions were asked for Article 7§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusions 2019) the Committee found that the situation was not in conformity with the Charter on the ground that the legislation on the prohibition of employment of children subject to compulsory education is not effectively enforced.

The report states that the age of 15 years represents the age limit from which a person acquires general legal capacity to work. If a legal entity enters into a contract in violation of Article 20 of the Labour Code, it will be fined between €2 000 and €20 000, in accordance with Article 208, paragraph 1, point 3.

According to the report, minors are frequently seen at work during the summer tourist season. Irregularities in the employment of minors observed include the absence of an employment contract, the absence of parental approval, or the absence of a medical certificate. The Labour Inspectorate found no evidence that the minors were enrolled in primary school at the time they were discovered working.

The Committee recalls that Article 7§3 requires States Parties to ensure that children still subject to compulsory education and employed to work are not deprived of the full benefit of their education. Under this provision, children of school age may only carry out light work. The Committee considers that the Government has not demonstrated that in practice, children who are still in compulsory education are not involved in employment that would not be regarded as light work. Therefore, the Committee reiterates its previous finding of non-conformity on this point.

Conclusion

The Committee concludes that the situation in Montenegro is not in conformity with Article 7§3 of the Charter on the ground that the legislation on the prohibition of employment of children subject to compulsory education is not effectively enforced.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Working time

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

The Committee recalls that no questions were asked for Article 7§4 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee recalls that Article 7§4 requires that the working hours of persons under 18 years of age are limited in accordance with the needs of their development, and particularly with their need for vocational training.

In its previous conclusion, the Committee considered that the situation in Montenegro was not in conformity with Article 7§4 of the Charter on the grounds that the limit of 40 hours' work per week for young workers under the age of 16 was excessive and that it had not been established that the legislation on working time and rest periods for young workers under 18 years of age was effectively enforced (Conclusions 2019).

The report states in reply that the new Labor Law stipulates that working hours less than full time for employees under the age of 15 may be determined by the collective agreement with the employer in accordance with the requirements of Council Directive 94/33/EC of June 22, 1994 on the protection of young people at work. The Committee notes from the Official Gazette that the new Labour Act (OGM, no. 74/19) entered into force in Montenegro on 8 January 2020, with a view to harmonise its legislation with the EU *acquis* in line with its obligations under the Stabilisation and Association Agreement with the European Union and to comply with the recommendations of the International Labour Organisation ratified by Montenegro.

The Committee observes that under the Council Directive 94/33/EC, the daily working time may not exceed seven hours and 35 hours a week for light work performed by children no longer subject to compulsory full-time schooling under national law. The Committee recalls that under Article 7§4 it assess in particular the working hours of persons under 18 years of age who are not under the compulsory education. It further recalls that pursuant to its well-established case-law, the number of hours that a person under 16 may work will be, consistent with Article 7§4, less than that permitted for adults. Thus, a forty-hour week of eight hours a day is excessive, unless time is allowed off during working hours for vocational study. The Committee understands that this is the case for Montenegro under the new Labour Code and that as such the situation has been brought into conformity with the Charter.

In its previous conclusion, the Committee also concluded that it had not been established that the legislation on working time and rest periods for young workers under 18 years of age was effectively enforced. The report states in reply that the labor inspection monitors the working hours of workers under the age of 18, as well as for other employees. It also monitors employer's collective agreements and directly questions individuals.

The Committee notes, in this respect, the ILO Direct Request (CEACR) - adopted 2021, published 110th ILC session (2022) with respect to the Labour Inspection Convention, 1947 (No. 81) ratified by Montenegro, according to which labour inspectors are not empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. The ILO criticizes an obligation to leave an invitation for an entity to be present at a specified date and time for inspection which could have the same effect as giving a previous notice of inspection. The Committee recalls that the situation in practice should be regularly monitored, in particular by way of unannounced inspections. In the light of the above, the Committee considers that the situation is not in conformity with Article 7§4 of the Charter in this regard.

Conclusion

The Committee concludes that the situation in Montenegro is not in conformity with Article 7§4 of the Charter on the ground that labour inspectors supervising the working time of young workers lack the authority to conduct unannounced inspections.

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

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

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 7§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion, the Committee considered that the situation in Montenegro was not in conformity with Article 7§5 of the Charter on the ground that the young workers wages were not fair (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity, and to the targeted questions.

Fair remuneration for young workers and apprentices

The Committee recalls that young worker’s wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly. For 15/16 year-olds, a wage of 30% lower than the adult starting wage is acceptable. For 16/18 year-olds, the difference may not exceed 20%. The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker’s wage which respects these percentage differentials is not considered fair.

In its previous conclusion, the Committee noted that the monthly minimum wage corresponded to approximately 37,8% of the average adult wage, which was not considered acceptable. Therefore the Committee considered that the situation was not in conformity with the Charter.

The report provides that the minimum wage was raised from 250 EUR to 450 EUR in the net amount as of January 2022. In December 2021, the average gross monthly wage in Montenegro was 802 EUR, while the average net monthly wage was 537 EUR. All employees, regardless of age, are entitled to a minimum wage for standard work performance and full-time hours and to equal pay. The apprentice's pay cannot be less than 80% of the base pay for the job to which he is assigned throughout the reference period. For tertiary education an apprenticeship lasts nine months; for lower education levels, it lasts six months.

Fair remuneration in atypical jobs

For the present monitoring cycle, the Committee requested updated information on net minimum wages and allowances payable to persons under 18 years of age. In particular, it asked for information on measures taken to ensure that fair remuneration is guaranteed to young workers:

- i) in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)
- ii) in the gig or platform economy and
- iii) having zero hours contracts.

The report provides that the labor legislation of Montenegro does not recognize zero-hours contracts, employment contracts on platforms or in the GIG economy, or any other similar arrangements. Regardless of any characteristic, all employees are guaranteed equal pay. Additionally, the provisions of the labor legislation do not recognize a different treatment when it comes to the age of engaged persons regarding atypical employment contracts (part-time employment contracts, fixed-term employment contracts, fixed-term employment contracts within the duration of the project, fixed-term employment contracts for performing seasonal

work, apprentice employment contracts, and contracts on temporary and occasional jobs). The equal wage principle also applies in this situation.

Enforcement

In the context of the present monitoring cycle the Committee also requested information on measures taken to ensure that this right of young persons to fair pay is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions).

The report provides that supervision of the application of the Labor Law is carried out by the Directorate for Inspection Affairs through the Department for Labor Inspection. During the inspections, labor inspectors inspect the employment contracts of minors, control decisions on working hours and shift schedules, and in this regard check whether minors have guaranteed daily and weekly rest, and whether they are exempt from night work.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 7§5 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

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

The Committee recalls that no questions were asked for Article 7§6 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee recalls that Article 7§6 requires that time spent on vocational training by young people during normal working hours must be treated as part of the working day (Conclusions XV-2 (2001), Netherlands). Such training must, in principle, be done with the employer’s consent and be related to the young person’s work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked (Conclusions V (1977), Statement of Interpretation on Article 7§6). This right also applies to training followed by young people with the consent of the employer and which is related to the work carried out, but which is not necessarily financed by the latter.

In its previous conclusion, the Committee found that the situation in Montenegro was in conformity with Article 7§6 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee has previously recalled that the situation in practice should be regularly monitored and requested for information on the monitoring activities and findings of the State Labour Inspectorate in relation to inclusion of time spent on vocational training in the normal working time.

The report states that supervision over the application of the Labor Law, i.e. the above-mentioned provisions, is carried out by the Directorate for Inspection Affairs through the Department for Labor Inspection. During the inspections, labor inspectors, i.e., inspect the employment contracts of minors, control decisions on working hours and shift schedules.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 7§6 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 7 - Paid annual holidays

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

The Committee recalls that no targeted questions were asked for Article 7§7 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Montenegro was in conformity with Article 7§7 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee asked whether young workers were allowed to waive their right to annual leave in return for increased remuneration. The report notes that the right to annual leave cannot be substituted with monetary compensation, other than in the event of termination of employment.

The Committee asked for information on the activities of the Labour Inspectorate in relation to the paid annual holidays of young workers under 18 years of age and on whether staffing levels and qualifications of Labour Inspectors were sufficient. The report notes that the Labour Inspectorate had not found any violations of the regulations in question during the reference period. The report also provides details about the organisation of the Labour Inspectorate and about the professional qualifications of labour inspectors.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 7§7 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 8 - Prohibition of night work

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

The Committee recalls that no targeted questions were asked for Article 7§8 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Montenegro was in conformity with Article 7§8 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the new provisions concerning night work as regards young workers that were envisaged to be adopted. The Committee notes from the report that the new legal provisions did not materially change the legal framework, which it had previously found to be in conformity with Article 7§8 of the Charter.

The Committee asked for information on the activities of the Labour Inspectorate in relation to possible illegal involvement of young workers under 18 years of age in night work and on whether staffing levels and qualifications of labour inspectors were sufficient. The report notes that the Labour Inspectorate did not identify any violation of the prohibition in question during the reference period, and that it did not receive any complaints in that regard either. As regards the qualifications of labour inspectors, the report notes that they all have a legal background, with specific expertise in labour law, but, however, that their number may be insufficient if the scale of undeclared work in the country is taken into account.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 7§8 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

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

The Committee recalls that no targeted questions were asked for Article 7§9 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Montenegro was not in conformity with Article 7§9 of the Charter on the ground that the legislation did not provide for compulsory regular medical check-ups for young workers under 18 years of age (Conclusions 2019).

The report refers to Article 20 of the Law on Health Care, which describes in general terms the occupational healthcare measures applying to all workers, whether young or adult. However, there is nothing in the information available to indicate that young workers are provided with compulsory initial and, thereafter, regular medical examinations, as required under Article 7§9 of the Charter. Therefore, the Committee reiterates its previous conclusion of non-conformity.

Conclusion

The Committee concludes that the situation in Montenegro is not in conformity with Article 7§9 of the Charter on the ground that young workers under 18 years of age employed in occupations prescribed by national laws or regulations are not subject to regular medical control.

Article 8 - Right of employed women to protection of maternity

Paragraph 1 - Maternity leave

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

The Committee recalls that no targeted questions were asked in relation to Article 8§1 of the Charter, only a question in relation to Covid-19. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group "Children, families and migrants").

As the previous conclusion found the situation in Montenegro to be in conformity with the Charter (Conclusions 2019), there was no examination of the situation in 2023. Therefore, the Committee reiterates its previous conclusion.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had an impact on the right to paid maternity leave.

According to the report, Covid-19 didn't have an impact on the right to paid maternity leave.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 8§1 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 2 - Illegality of dismissal during maternity leave

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

The Committee recalls that no targeted questions were asked in relation to Article 8§2 of the Charter only a question in relation to Covid-19. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group “Children, families and migrants”).

In the previous conclusions (Conclusions (2019)), the Committee the Committee concluded that the situation was in conformity with Article 8§2 of the Charter pending further information on the permissible grounds for dismissal during pregnancy or maternity leave and on the compensation awarded in cases of unlawful dismissal of employees who were pregnant or on maternity leave.

Prohibition of dismissal

The Committee previously noted pregnancy does not protect a woman from dismissal if there are objective grounds for dismissal, such as failure to meet the work objectives (set out in the collective agreement, the employer’s instructions or the employment contract), or non-compliance with the obligations laid down in law, the collective agreement or the employment contract. The Committee requested that the next report specify how domestic courts interpret and apply these exceptions (Conclusions 2019).

According to the report the Labour Code (Article 123, Paragraph 1) stipulates that an employer cannot terminate an employee’s employment while she is pregnant or while she is taking parental or maternity leave. However the employment relationship may be terminated due to a serious breach of the employment obligation or due to the existence of one of the reasons related to the termination of the employment relationship under the force of law provided for in Article 164 of the Labour Law (collective redundancy where the enterprise ceases to exist). In such cases, the employer must specifically justify the dismissal in writing.

Redress in case of unlawful dismissal

In its previous conclusion (Conclusions 2019), the Committee found that the situation was in conformity with Article 8§2 of the Charter but asked for concrete examples of the compensation awarded in cases of unlawful dismissal of employees who were pregnant or on maternity leave.

The report states it has no information on the levels of compensation awarded by the courts.

Covid-19

The Committee asked whether the Covid-19 crisis had had an impact on the possibility of dismissing pregnant employees and those on maternity leave; it also asked whether there had been any exceptions to the ban on dismissal during pregnancy and maternity leave during the pandemic.

The report states that the Labour Code was fully applicable during the Covid-19 outbreak. The protection of pregnant workers and those on maternity leave was unaffected by the Covid-19.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 8§2 of the Charter.

Article 8 - Right of employed women to protection of maternity
Paragraph 3 - Time off for nursing mothers

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

The Committee recalls that no targeted questions were asked for Article 8§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group Children, families and migrants”).

As the previous conclusion found the situation in Montenegro to be in conformity with the Charter (Conclusions 2019) there was no examination of the situation in 2023.

Therefore, the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 8§3 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 4 - Regulation of night work

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 8§4 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion, the Committee concluded that the situation was in conformity with Article 8§4 of the Charter pending receipt of information requested (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the information previously requested and the targeted question.

In its previous conclusion and targeted question the Committee asked for confirmation that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in the case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.

The Committee recalls that night work is prohibited for pregnant women and women who have recently given birth or who are breastfeeding (Conclusions 2019). The report states that employers must offer pregnant women, women who have recently given birth or are breastfeeding alternative suitable employment. A woman who is temporarily transferred to alternative employment maintains her previous salary. If redeployment to another post is not possible the woman is entitled to take leave and continues to receive her salary.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 8§4 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 8§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion, the Committee concluded that the situation was in conformity with Article 8§5 of the Charter, (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted question.

In its targeted question the Committee asked for confirmation that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in the case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave and women concerned retain the right to return to their previous employment once their condition permits.

The Committee notes from the report that no loss of pay results from changes in working conditions or reassignment to a different post or if this is not possible leave from her post. The report confirms that women have the right to return to their previous employment at the end of the protected period.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 8§5 of the Charter.

Article 16 - Right of the family to social, legal and economic protection

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

The Committee recalls that for the current reporting cycle, States were asked to respond to several targeted questions for Article 16 of the Charter as well as, where applicable, previous conclusions of non-conformity, deferral or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the Charter's implementation in respect of the provisions relating to the "Children, family and migrants" thematic group).

In its previous conclusion (Conclusions 2019), the Committee found that the situation in Montenegro was not in conformity with Article 16 of the Charter on the grounds that:

- it had not been established that the measures implemented to address the problem of domestic violence had been sufficient;
- family benefits did not cover a significant percentage of families.

The Committee's assessment will therefore relate to the information provided in the report in response to the conclusion of non-conformity, and to the targeted questions.

Legal protection of families

Rights and obligations, dispute settlement

- **Rights and obligations of spouses**

In its previous conclusions (Conclusions 2019 and 2015), the Committee asked whether spouses were equal, particularly in respect of rights and obligations within the couple (reciprocal responsibility, ownership, administration and use of property, etc.). The Committee also noted the information from the Concluding Observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) of 2017 (see the previous conclusion for more details) and asked for comments.

In response, the report indicates that pursuant to Article 291 of the Family Law (No. 1/07, 53/16, and 76/20), joint property is disposed of by the spouses during the marriage by joint and mutual consent. Pursuant to Article 292, spouses may agree that one of them manages and disposes of all the common property or only part of it (see the report for more details). In case of divorce, the court divides the marital property in proportion to the contributions of each spouse at the request of the spouse who can prove that his/her contribution to the acquisition of the marital property clearly and significantly exceeds the contribution of the other spouse. However, the report adds that in calculating each spouse's share, the court considers various factors, including each spouse's income and earnings, as well as each spouse's contribution to the other spouse's work, household, childcare, and other employment, and co-operation in the management, maintenance and growth of the marital property.

- **Mediation services**

In its previous conclusion (Conclusions 2019), the Committee asked whether the mediation procedure was voluntary or mandatory and whether it was affordable.

In response, the report indicates that the Mediation Law expired in 2020 following the adoption of the new Law on Alternative Dispute Resolution (No. 77/20). Under Article 12 of the new Law, the party intending to initiate legal proceedings must first approach the Centre for Alternative Dispute Resolution with a view to resolving the dispute through mediation.

The Committee notes from the report that Article 326 of the Family Law stipulates that the court directs the parties to the first meeting with a mediator in order to reconcile or reach an agreement between the spouses on the exercise of parental rights after divorce and an agreement on the division of common property (except in case of suspected domestic violence).

The report states that the conciliation process is free of charge and optional for the spouses.

Domestic violence against women

The Committee notes firstly that Montenegro has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which entered into force in Montenegro in August 2014.

In its previous conclusion (Conclusions 2019), the Committee asked for comprehensive and updated information on all aspects of domestic violence against women and related convictions, as well as on the use of protection orders, the implementation of the existing measures and those under way and their impact on reducing domestic violence against women. In the meantime, it considered that the situation was not in conformity with Article 16 on the ground that it had not been established that measures implemented to address the problem of domestic violence had been sufficient.

In addition, among the targeted questions that it raised, the Committee asked for updated information on measures taken to reduce all forms of domestic violence against women, including information on incidence and conviction rates.

The report indicates that a new 2016 - 2020 Domestic Violence Prevention Strategy was adopted at the start of 2016. Its main objectives are to strengthen the administrative and professional framework, to adopt a multidisciplinary approach to the implementation of regulations in the field of protection against domestic violence, to raise public awareness of violence against women and domestic violence, to reinforce the institutional system of protection against such offences, and to improve access to justice and legal protection for victims.

A new Protocol on Handling, Prevention and Protection from Violence against Women and Domestic Violence was developed within the framework of the programme "Support to Anti-discrimination and Gender Equality Policies", implemented by the UNDP in cooperation with the Ministry of Human and Minority Rights and funded by the European Union. It was signed on 28 September 2018 and entered into force on 1 January 2019. Its main objectives are to mainstream the Istanbul Convention into the daily work of institutions and organisations in order to effectively and quickly protect victims of violence; to facilitate the exchange of information between relevant institutions; to harmonise data collection methods in order to create a single database.

In 2021, a Coordination Committee was established to coordinate, implement, monitor and evaluate the various programmes and initiatives aimed at preventing and combating all types of violence included in the Istanbul Convention. In addition, the Ministry of Internal Affairs has created an Operational Team to combat domestic violence and violence against women. Its responsibility is to assess current practices in the light of the Istanbul Convention and national laws. It aims to develop additional guidelines and initiatives for targeted changes in public policies and institutional practices for the prevention and protection of women from all forms of violence, including domestic violence, with a particular focus on the actions of the police.

The report also indicates that two national plans - the National Plan for the Improvement of General Support Services for Victims of Violence and the 2019–2021 National Plan for the Improvement of Specialised Support Services for Victims of Violence - were adopted in accordance with the Istanbul Convention. The Committee notes in the report that the Action Plan to monitor the implementation of GREVIO's recommendations and the implementation of actions and activities in this Action Plan was adopted in the first quarter of 2020. The Coordination Committee monitors the implementation of the Action Plan and the National Plans.

In addition, the report states that the Ministry of Labour and Social Welfare, the Directorate for Social and Child Protection, in cooperation with the UNDP and NGOs specialised in support

services for victims of violence, developed a Crisis Action Plan for providers of specialised services to assist victims of domestic violence in the best possible way.

The Committee notes that the database on domestic violence was created as part of the Social Record - Integrated Information Social Welfare System (IISSS) project and launched in 2019. Since then, police notifications and reports of domestic violence from welfare centres have been shared automatically, using a predetermined set of data. Welfare centre managers automatically receive an email notification for every report of violence.

The report indicates that general support services are provided by the police, the health care system, and the social and child protection system. Women's NGOs offer specialised support services, and most of their funding comes from donations. In order to ensure a high-quality service and to integrate NGOs into the social protection system, the Ministry of Labour and Social Welfare requires accredited providers of housing assistance for victims of abuse. There are two accredited service providers for children and two accredited service providers for adults and older people. They all provide an SOS telephone service to children and adults who are victims or witnesses of violence, gender-based violence, domestic violence and exploitation, or who are at risk of becoming victims. The report reiterates that there are three approved shelters and one short-term shelter (up to 7 days) for victims of domestic violence (see Conclusions 2019 for more details).

Due to the failure to provide requested information on the use of protection orders, on the impact of the implemented measures on reducing domestic violence against women, or on incidence and conviction rates, the Committee concludes that the situation in Montenegro is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

Social and economic protection of families

Childcare facilities

In its previous conclusion (Conclusions 2019), the Committee asked whether childcare facilities were available, affordable and of good quality (coverage with respect to the number of children aged 0-6, ratio of staff to children, staff training, suitable premises and cost of childcare to parents, etc.).

The report indicates that there are both private and state preschool institutions. In the 2019-2020 school year, a total of 23,080 children under 6 (52%) attended preschool programmes in 170 educational institutions and 778 groups.

In the 2019-2020 school year, 2,593 people were employed in early childhood education, of whom 1,290 (50%) were teachers, 572 (22%) nurses, 49 (1.8%) professional assistants, and 682 (26%) administrative and support staff.

The report also indicates that the Institute of Education issues licences to all pre-school education workers to work in educational institutions; these permits must be renewed every five years. The Committee notes that the ratio between the number of children and the number of professionals working directly with children (teachers and nurses) is about 14.7 children per professional. The Committee underlines that States Parties are required to ensure that childcare facilities are available, affordable and of good quality (coverage with respect to the number of children aged 0-6, ratio of staff to children, staff training, suitable premises and cost of childcare to parents, etc.).

The Ministry of Labour and Social Protection covers the total cost of stay and meals for referred children, children from the Roma and Egyptian communities, families of financial assistance recipients and children without parental care. The Ministry of Education covers 50 % of the costs for children of single parents.

The Committee notes from the report that the 2021-2025 Strategy on Early and Preschool Education (outside the reference period) aims to increase participation in early childhood education and care.

Family benefits

Equal access to family benefits

In its previous conclusion (Conclusions 2019), the Committee noted that the law did not establish any length of residence requirement for entitlement to family benefits and asked for confirmation of its understanding.

In a targeted question, the Committee asked whether a length of residence requirement was imposed on nationals of other States Parties lawfully resident in the country for eligibility to family benefits.

The report confirms that the law does not make entitlement to family benefits subject to any residence requirement. According to the MISSCEO database, the right to receive child benefits may be exercised by Montenegrin citizens residing on the territory of Montenegro and nationals of other States Parties whose temporary stay or permanent residence in Montenegro has been approved, asylum seekers and nationals of other States Parties benefiting from subsidiary protection. The Committee considers that the situation is in conformity with Article 16 of the Charter on this issue.

Level of family benefits

Among the targeted questions that it raised, the Committee asked for information about the amounts paid in family benefit as well as the median equivalised income for the reference period. It also asked whether family or child benefits were subject to a means-test and, if so, what percentage of families were covered.

The Committee points out that family benefit must be such as to provide a significant number of families with sufficient extra income. Adequacy is assessed with respect to the monthly median equivalised net income as calculated by Eurostat.

The Committee notes from the Statistical Office of Montenegro (Monstat) data that the monthly median equivalised income stood at €326 in 2021.

In its previous conclusion (Conclusions 2019), the Committee asked what percentage of families receive child allowance.

In response, the report indicates that the average number of beneficiaries of child allowance decreased from 14,903 in 2018 to 13,677 in 2021.

In its previous conclusions (Conclusions 2019 and 2015), the Committee noted that entitlement to child allowance was limited to families receiving social assistance, and therefore, considered that the situation was not in conformity on the ground that family benefits did not cover a significant number of families.

The Committee notes from the report that this situation did not change during the reference period.

In particular, the report repeats that the monthly amount of the child allowance depends upon the social situation:

- recipient of social assistance cash benefit €48;
- recipient of care and assistance allowance: € 57.37;
- recipient of personal disability allowance: €66.2;
- child deprived of parental care: €66.2;
- in case of activation assistance or assistance for an unfavourable social situation: €48.55 in 2021.

The Committee also notes that entitlement to social assistance for families depends on the income and property assets of family members. In 2022 (outside the reference period), 6,307 families (about 3.3%) were eligible for social assistance. The Committee notes that the average number of families receiving social assistance decreased from 9,311 in 2018 to 8,037 in 2021. The amount of social assistance increased during the reference period (from €67.62 to €76.56).

Furthermore, the report states that from 2021, a new child benefit of €30 has been paid to all children under the age of 6, regardless of their parents' financial situation. In 2021, 36,715 children benefited from this allowance.

The Committee observes that in 2021, child allowance represented the equivalent of about 15% of median equalised income. However, despite all the changes that occurred outside the reference period (for more details, see the report), the Committee notes that the entitlement to child allowance remains restricted to given social eventualities and in particular, to families receiving social assistance.

The Committee reiterates its previous conclusion of non-conformity with Article 16 of the Charter on the ground that family benefits do not cover a significant number of families.

Measures in favour of vulnerable families

In its previous conclusion (Conclusions 2019), the Committee asked for information about the outcome of the implementation of the Strategy for the Social Inclusion of Roma and Egyptians in Montenegro 2016-2020.

The report indicates that the strategy was implemented through annual action plans that identified activities in various areas (legal status, social status and protection of the family, including combating domestic violence and violence against women, the prevention and suppression of begging, the fight against human trafficking, and the prevention of illegal child marriages, etc.).

The Committee takes note of the activities carried out and the results achieved during the reference period in implementing the Strategy in the fields of education at all levels, healthcare, employment, housing, culture, etc.

Among the targeted questions that it raised, the Committee asked what measures had been taken to ensure that vulnerable families could meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services).

In response, the report indicates that about 20,000 families and individuals in financial need received subsidies for electricity bills on a monthly basis. According to the report, the amount of subsidies allocated annually was about € 3 million.

In a targeted question, the Committee asked whether, in cases where specific temporary measures had been taken to financially support families during the covid-19 pandemic, they would or were expected to be maintained or withdrawn and, if they had been withdrawn, what effect this was expected to have on vulnerable families.

In response, the report indicates that five packages of measures were adopted to tackle the pandemic. In particular, three distinct packages for social protection support were introduced by the government in 2020 (a one-off payment of €50 and of €200 for recipients of financial assistance, and a one-off payment of €50 for all officially registered unemployed people). The report states that the social protection system was able to support users at that time, but failed to extend social aid to people who were further impoverished, and to vulnerable groups. In 2021, the Government implemented a package of measures to provide one-time assistance to beneficiaries of individual disability benefits (in amount of €50; 2,767 recipients), beneficiaries of financial assistance (€50 for single people and €100 for families; 8,354 households) and to all officially registered unemployed (€100). In addition, the report indicates that the Committee responsible for distributing part of the budget reserve funds granted

financial support in the form of vouchers to residents in need. Implemented in September 2021, 2,924 social vouchers of €30, €50 or €100 were distributed for supermarket purchases, with a total value of €180,540.

Housing for families

In its previous conclusion (Conclusions 2019), the Committee asked for comprehensive information on all aspects concerning the legal framework ensuring protection against eviction (the obligation to fix a reasonable notice period before eviction, access to legal remedies, and compensation in case of illegal eviction), including in cases of eviction for reasons other than the removal of illegal structures (for example, insolvency or wrongful occupation by tenants). In the meantime, the Committee reserved its position on this point.

The report indicates that in accordance with the Law on Spatial Planning and Construction of Structures as amended on 14 August 2020, the local government entities managing the legalisation process for unlawful buildings can receive legalisation requests on a daily basis. If the owner and members of his/her family do not own any other dwelling on the territory of Montenegro, the illegal building is considered to be the main residence if it has a net built-up area less than or equal to 200 m² and if it is located where the owner of the illegal building and his/her family members live. The report adds that it is not possible to evict tenants from their principal residences and demolish them until alternative accommodation is offered.

The report also states that according to Article 636 of the Law on Obligations (No. 47/08, 4/11, and 22/17), any person with a legitimate interest can apply to the local authority to evict a person who has illegally moved into the private or common areas of a residential building. The eviction procedure must take place quickly.

Due to the failure to provide comprehensive information on all the aspects concerning the legal framework ensuring protection against eviction, the Committee concludes that the situation in Montenegro is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

In its previous conclusion (Conclusions 2019), the Committee asked for detailed information on the implementation of local social housing programmes, as well as figures on the overall availability of social housing provided by municipalities (demand and supply). It also asked for information on the housing situation of refugee families.

In a targeted question, the Committee asked States Parties which have not accepted Article 31 of the Charter to provide updated information on the availability of adequate and affordable housing for families.

The report indicates that there is no right to affordable housing for families in the Law on Social and Child Protection. According to the Law No. 35/13 on Social Housing, social housing is defined as “housing of an appropriate standard provided to individuals or households who, for social, economic or other reasons, are unable to cope with the issue of housing”. According to this law, individuals (including foreign citizens and stateless persons) who do not own an apartment or other type of housing or whose housing does not meet acceptable standards and who are unable to find housing with the income they generate, may exercise their right to social housing. The Committee takes note of the various population groups prioritised for social housing, in particular members of Roma and Egyptian families and victims of domestic violence. It also notes that 167,177 families were registered in the 2017-2020 Social Housing Programme.

The Committee notes from the report that the recording and analysis of the current housing stock, including social housing, is being assessed. The Committee takes note of the various construction projects presented in the report, under which some 907 housing units are due to be built.

Due to the failure to provide requested information on the availability of adequate and affordable housing for families, the Committee concludes that the situation in Montenegro is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

In its previous conclusion (Conclusions 2019), the Committee asked for information on the measures taken with a view to improving the housing situation of Roma and Egyptian families around the country. In the meantime, it reserved its position on this point.

The report indicates that the Regional Housing Programme is responsible for the construction of housing units for members of the Roma and Egyptian communities. This programme has resulted in the construction of 233 housing units providing accommodation for more than 1,000 individuals. *HELP-Hilfe zur Selbsthilfe*, through its projects funded by the German government, the European Union, and UNHCR, provided 100 social housing units to 132 beneficiaries during the reference period.

Participation of associations representing families

In its previous conclusion (Conclusions 2019), the Committee took note of the cooperation of NGOs and their representatives with public authorities and administration, especially in the field of social and child protection, and asked whether associations representing families were among the NGOs taking part to the elaboration of family policies.

In response, the report indicates that, pursuant to Decree No. 41/18 on the election of representatives of non-governmental organisations to public administration working bodies and the conduct of public consultations in connection with the drafting of laws and strategies, the Ministry of Labour and Social Protection published a public call for applications to set up a working group to draft laws, by-laws and strategic documents in the field of social protection and child protection.

Conclusion

The Committee concludes that the situation in Montenegro is not in conformity with Article 16 of the Charter on the ground that family benefits do not cover a significant number of families.

Due to the failure to provide the information listed below the Committee concludes that the situation in Montenegro is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article 21 of the Charter.

Information missing:

- the use of protection orders, the impact of the measures implemented on reducing domestic violence against women, or the incidence and conviction rates;
- all aspects concerning the legal framework ensuring protection against eviction (the obligation to fix a reasonable notice period before eviction, the accessibility of legal remedies, and compensation in case of illegal eviction), including in cases of eviction for reasons other than the removal of illegal structures (for example, insolvency or wrongful occupation by tenants);
- the availability of adequate and affordable housing for families.

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 1 - Assistance, education and training

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee also recalls that in the General Introduction to Conclusions 2019, it posed general questions under Article 17§1 and asked States to provide, in the next report, information on measures taken to reduce statelessness; to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation; to reduce child poverty; combat discrimination and promote equal opportunities for children from particularly vulnerable groups; and on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

Previously, the Committee deferred its conclusion (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of deferral, the targeted questions and the general questions.

The legal status of the child

The Committee previously requested confirmation that there was no discrimination between children born within marriage and outside marriage, for example, in matters relating to inheritance rights and maintenance obligations (Conclusions 2019).

In the general questions, the Committee asked for information on measures taken by the State to reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth). It also asked for information on measures taken by the State to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation.

The report states that in accordance with Article 6 of the Family Law, regardless of whether a child was born within marriage or outside of it, there are the same rights and obligations within the family.

The report states that Montenegro established a procedure for determining the status of stateless persons through the adoption of the new Law on Foreigners No. 12/18, 3/19 and the Rulebook, which established a clearly defined procedure detailing the steps to be taken, the content of the application for the determination of the status of a stateless person, the content of the application for the issue of a travel document to a stateless person, as well as the appearance and content of the travel document itself.

The report further states that the right to universal birth registration is one of the priority areas under the jurisdiction of the Directorate for Civil Status and Personal Documents at the Ministry of Interior. The health institution is required to notify the birth of a child in a maternity hospital or another health institution without exception. When 30 days have passed since the birth of the child and the birth has not been recorded, the subsequent birth registration will be carried out. The biggest challenge was registration of children born outside a medical facility but significant progress has been made in this area with the adoption of the Law on Amendments to the Law on Extrajudicial Procedure in 2015. In accordance with the Law on Birth Registers,

a child whose parents are unknown must have their his/her birth recorded in the birth register of the municipality in which they were discovered.

Child poverty

In the general questions, the Committee asked for information on measures to reduce child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing, etc.); to combat discrimination and promote equal opportunities for children from particularly vulnerable groups, such as ethnic minorities, Roma children, children with disabilities and children in care. It also asked for information on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

The report states that the Government introduced a child benefit for children up to the age of six.

The report further states that the Strategy for Exercising the Rights of the Child 2019-2023 was adopted in 2019. Children and their representatives were given an opportunity to voice their opinions by being involved in the formulation of the Strategy.

Due to the failure to provide requested information on measures taken to combat discrimination and promote equal opportunities for children from particularly vulnerable groups, such as ethnic minorities, Roma children, children with disabilities and children in care, the Committee concludes that the situation in Montenegro is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

The Committee notes from EUROSTAT that 45.5% of children in Montenegro in 2021 were at risk of poverty or social exclusion, a slight decrease in comparison with 2018, when the percentage was 48.5%. The Committee notes that the 2021 rate is still extremely high (in 2021, the EU average was 24.4%) and concludes that the situation in Montenegro is not in conformity with Article 17§1 of the Charter on the ground that the rate of children at risk of poverty is too high.

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17 of the Charter. Consistent with its approach in relation to the conceptualisation and measurement of poverty adopted by the Committee in terms of Article 30, the Committee's consideration of child poverty for the purposes of Article 17 reflects an understanding of both income and multi-dimensional understandings of poverty (Statement of interpretation, 2013, Article 30). This understanding is reflected in the indicators and elements the Committee takes into account when assessing State Party compliance with Article 17. For the States that have not accepted Article 17, child poverty will be addressed under Article 30.

The EUROSTAT data and the EU-27 rate of children at risk of poverty or social exclusion is used as key point of reference and indicator of state compliance with Charter rights by the Committee. The Committee will also have regard to disimprovement in terms of the rate of children at risk of poverty or social exclusion in a State Party. Furthermore, the Committee also takes into account non-monetary measures adopted at reducing child poverty and social exclusion such as ensuring access to quality and affordable services in the areas of health, education and housing. When assessing State conformity with Article 17, the Committee will also take into account the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

Right to assistance

The Committee previously requested information on accommodation facilities for migrant children, whether accompanied or unaccompanied, including measures taken to ensure that

children were accommodated in appropriate settings and had access to healthcare. It also requested information as to whether children in an irregular migration situation, accompanied or not, could be detained and, if so, under what circumstances. Finally, the Committee asked whether Montenegro used bone testing to assess age and, if so, in what situations, and what potential consequences such testing could have (Conclusions 2019).

In the targeted question, the Committee asked for information on any measures adopted to protect and assist children in crisis situations and emergencies.

The report states that the Directorate for the Reception of Foreigners Seeking International Protection is responsible for the reception and housing of such foreigners. Facilities are the same whether migrants are accompanied or not. Healthcare is available to migrant children.

Due to the failure to provide requested information on measures taken to ensure that children in an irregular migration situation are accommodated in appropriate settings, the Committee concludes that the situation of Montenegro is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

The report further states that bone testing is not used to determine the age of unaccompanied migrant children.

In reply to the targeted question, the report states that there is no impact on the right to assistance in a possible crisis or emergency situation.

Rights of children in public care

In its previous conclusion, the Committee asked that the next report provide information on the implementation of the Social and Child Protection System Development Strategy for the period 2018-2022, including its impact. It also asked about the number of children placed in institutional care (including any children under the age of three) and the number placed in foster care, including information on trends in the area (Conclusions 2019).

The report shows that the Social and Child Protection System Development Strategy 2018-2022 helped to improve the normative framework of social and child protection as well as social services and created preconditions for continued deinstitutionalisation.

The report further states that, in December 2022, 94 children were in institutions, out of whom three were younger than three years old and 38 children had development disabilities, and 370 children were placed in foster care. The Committee notes that this information is outside the reference period for the purposes of the present reporting cycle.

The Committee notes from other sources (UN Committee on the Rights of the Child Concluding observations on the combined second and third periodic reports of Montenegro, 22 June 2018) that there is inadequate support for foster families and there are provisions in the Law on Social and Child Protection allowing for the institutionalisation of children under the age of three.

The Committee notes that it already held that when compared to family-based settings and community-based family-type services, placement in an institution can hardly be considered as serving the best interest of a child under the age of three (European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic, Complaint No. 157/2017, decision on the merits of 17 June 2020, §140). The Committee concludes that the situation in Montenegro is not in conformity with Article 17§1 of the Charter on the ground that children under the age of three can be placed in institutional care.

Children in conflict with the law

The Committee previously asked that the next report include information on the number of children subject to correctional measures and the nature of such measures, the number of

children subject to criminal sanctions, the number of children subject to imprisonment and for how long. It also asked for the Government's comments on the concern of the UN Committee of the Rights of the Child that children could be placed in detention with adults, that separate facilities for children did not exist and that existing provisions for alternatives to detention were not fully implemented. Finally, the Committee asked whether children could be placed in solitary confinement; if so, under what circumstances and for how long (Conclusions 2019).

The report states that in 2019, nine children were referred to a prison-type institution, in 2020 – five children and in 2021 – two children. In 2019, four children were referred to a non-institutional correctional institution, in 2020 – three children and in 2021 – two children. In 2019, measures of increased supervision were imposed in total on 103 children, in 2020 – 82 children and in 2021 – 6 children. Warning and guidance measures involved community service, payment of a certain amount of money, attending school regularly or going to work, judicial reprimand, apologies to the injured party, rehab, involvement in sports activities. These measures were imposed in total on 75 children in 2019, 76 children in 2020 and 59 children in 2021.

The report also provides information about the length of prison sentences imposed on children. In 2018, a prison sentence of six months was imposed on five children. In 2019, a prison sentence of six months was imposed on two children, of one year – on five children and of two years – on one child. In 2020, a prison sentence of six months was imposed on one child, of seven months – on one child and of one year also on one child.

The report states that the minors are kept separate from adults in detention but in exceptional circumstances can be detained together if it is established that the adult will not have a negative impact. The Committee recalls that minors should never be detained with adults (Conclusions 2019, Belgium) and finds the situation not to be in conformity in this respect.

The report states that minors cannot be placed in solitary confinement.

Conclusion

The Committee concludes that the situation in Montenegro is not in conformity with Article 17§1 of the Charter on the grounds that:

- the rate of children at risk of poverty is too high;
- children under the age of three can be placed in institutional care;
- children may be detained with adults.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Montenegro is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on measures taken to combat discrimination and promote equal opportunities for children from particularly vulnerable groups, such as ethnic minorities, Roma children, children with disabilities and children in care;
- on measures taken to ensure that children in an irregular migration situation are accommodated in appropriate settings.

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 2 - Free primary and secondary education - regular attendance at school

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17§2 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee also recalls that in the General Introduction to Conclusions 2019, it posed general questions under Article 17§2 and asked States to provide, in the next report, information on measures taken to introduce anti-bullying policies in schools; and on measures taken to facilitate child participation across a broad range of decision-making and activities related to education.

In its previous conclusion the Committee concluded that the situation in Montenegro was not in conformity with Article 17§2 of the Charter on the ground that children without residence permits were not entitled to access education (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity, the targeted questions and the general questions.

Enrolment rates, absenteeism and drop out rates

In the previous conclusion, the Committee noted that the net enrolment rate in secondary education was low (92.08% in 2017) and required further information on the reason for this. It also asked for updated information on enrolment and drop out rates as well as on measures taken to address the issues related to these rates. The Committee also requested information on measures taken to prevent school exclusions and to reintegrate students who have been excluded into education (Conclusions 2019).

The report states that mediators are involved in the social inclusion of Roma and Egyptian children in schools and this method is highly effective in reducing drop out rates.

The Committee notes from other sources (UNESCO database) that the enrolment rates in 2021 were as follows: 98.65% in primary education, 97.93% in lower secondary education and 88.55% in upper secondary education.

Due to the failure to provide the requested information on measures taken to prevent school exclusions and to reintegrate students who have been excluded into education, the Committee concludes that the situation in Montenegro is not in conformity with Article 17§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

Costs associated with education

The Committee has previously asked for updated information on measures in place to support the cost of education for children in rural areas and from low-income families (Conclusions 2019). In the targeted questions, the Committee asked for information on measures taken to ensure that state allocation of resources to private education did not negatively impact on the right of all children to access free, quality public education.

The report states that in Podgorica, Nikšić, Berane and Cetinje, free transport is offered to roughly 600 Roma and Egyptian pupils.

In reply to the targeted question, the report states that a private institution that offers public educational programmes may receive funding from the Montenegrin budget if it can

demonstrate that it meets specific criteria. The same applies to secondary religious institutions that may also receive funding from the Montenegrin budget. If a public institution and a private one are in the same location and there is a threat of more pupils enrolling in the private institution, the latter does not receive funding from the State budget.

Due to the failure to provide the requested information on measures taken to support the cost of education for children in rural areas and from low-income families, the Committee concludes that the situation in Montenegro is not in conformity with Article 17§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

Vulnerable groups

The Committee notes that where the States have accepted Article 15§1 of the Charter, the right to education of children with disabilities is dealt with under that provision.

The Committee has previously found the situation in Montenegro not to be in conformity with Article 17§2 of the Charter on the ground that children without residence permits did not have access to education. The Committee asked what proportion of Roma and Egyptian children were enrolled in compulsory education, what criteria were used to establish whether children had a legal right to enrol in the first grade and on the proportion of Roma and Egyptian children who did not have such a right. The Committee also sought confirmation that there were no longer separate facilities for Roma or Egyptian children in Montenegro and information on measures taken to improve their educational outcomes. In addition, it asked what measures had been taken to ensure street children's right to education (in street situations) (Conclusions 2019).

The report states that the Constitution of Montenegro establishes free and compulsory education for children aged six to 15. Children with temporary or permanent resident status, minors seeking international protection or asylum, foreigners covered by subsidiary protection are entitled to education.

The report further states that in the 2018/2019 school year, 1,933 pupils from Roma and Egyptian families were enrolled in primary or secondary education; in the 2019/2020 school year – 1,983 pupils and in the 2020/2021 school year – 1,793 pupils. The new Strategy for Social Inclusion of Roma and Egyptians 2021-2025 established the following objectives: to increase the percentage of Roma and Egyptian children attending early childhood education programmes from 16% to 30%; to increase the percentage of members of the Roma and Egyptian community who have completed primary school from 56% to 75%; to increase the percentage of members of the Roma and Egyptian community who completed secondary school from 3% to 20% and to increase the number of members of the Roma and Egyptian community enrolling annually in higher education institutions from four to 15.

The report states that the Ministry of Education promotes enrolment in pre school education, which helps street children to enrol in education.

Due to the failure to provide the requested information on whether there are no longer separate facilities for Roma and Egyptian children, the Committee concludes that the situation in Montenegro is not in conformity with Article 17§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

The voice of children in education

In the general questions, the Committee asked what measures have been taken by the State to facilitate child participation across a broad range of decision-making and activities related to education (including in the context of children's specific learning environments).

The report states that the Student Parliament is made up of representatives from all school classes. When the relevant school authorities are working on matters concerning students, representatives from the Student Parliament have the right to participate. A member of the Student Parliament is allowed to attend meetings of the management board or school board. Schools are also required to carry out anonymous surveys of pupils at least once a year on educational programmes and teachers.

Anti-bullying measures

In the general questions, the Committee asked what measures have been taken to introduce anti-bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention.

The report states that with the 2019-2021 Action Plan, the Ministry of Education implemented the Programme for the Suppression of Peer-to-Peer Violence and Vandalism in Educational Institutions in Montenegro. In the 2019/2020 school year, training sessions were held for students on safety in school, on peer aggression. The “My Values and Virtues” campaign aims to foster a range of values among pupils.

Covid-19

In the context of the Covid-19 crisis, the Committee asked the States Parties to provide information on measures taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children).

The Committee recalls that under Article 17§2 of the Charter equal access to education must be ensured for all children during the Covid-19 crisis. In this respect, particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children with disabilities, children in hospital, children in care, pregnant teenagers, children deprived of their liberty (Statement on Covid-19 and social rights, 24 March 2021).

The report states that registration of pupils took place online, e-learning was accompanied by initiatives aimed at providing members of marginalised groups with specific assistance through all forms of public information. Smartphones were distributed to pupils, and equipment was distributed by hiring social inclusion specialists.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Montenegro is not in conformity with Article 17§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Montenegro of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on measures taken to prevent school exclusions and to reintegrate students who have been excluded into education;
- on measures taken to support the cost of education for children in rural areas and from low-income families;
- whether separate facilities for Roma and Egyptian children still exist.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 11 - Teaching language of host state

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

The Committee points out that no targeted questions were asked in relation to Article 19§11 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusion (Conclusions 2019), the Committee found the situation in Montenegro to be in conformity with Article 19§11 of the Charter, pending receipt of the information requested.

In the previous conclusion (Conclusions 2019), the Committee asked the next report to supply the information on teaching the national language to adult migrants and whether, within or outside the school system, children who continue to struggle due to language barriers may receive further assistance.

In reply, the report indicates that the National Council approved a levelled educational program for studying the Montenegrin language in 2013, and it was created by the Center for Vocational Education. Moreover, in compliance with the Law on International and Temporary Protection of Foreigners, the Center for Vocational Education created the Education Program for learning the Montenegrin language, history, and culture for asylum seekers and foreigners under subsidiary protection. Adult Education Centres must advertise for enrolment, or inclusion in the educational program. The curriculum was developed in accordance with the Common European Framework of Reference for Languages and is aimed at immigrants under subsidiary protection and asylum seekers.

The report also provides that supplemental classes are organized according to a special publicly valid educational program, for a maximum of one school year, for students who enrol in classes for the first time and do not know or do not know the language sufficiently in which the classes are held, as a special help in mastering the language and better involvement in classes.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 19§11 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 12 - Teaching mother tongue of migrant

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

The Committee points out that no targeted questions were asked in relation to Article 19§12 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusion (Conclusions 2019), the Committee deferred its conclusions, pending receipt of the following information on:

- whether provision for the teaching of migrants’ mother tongue is made within the school system or through other organisations;
- whether the children of migrants have access to multilingual education, and on what basis; what steps that government has taken to facilitate the access of migrants’ children to these schools and how they are funded;
- what additional educational programs for the instruction of foreign languages exist within and outside the school system;
- whether there are any local associations, cultural centres or private initiatives that teach migrant workers’ children the language of their country of origin and whether they receive support.

In reply, the report indicates that Albanian, Bosnian, Croatian, and Romani are the primary minority languages of Montenegro and the 2019–2023 Minority Policy Strategy in particular sets the goal of improved respect for the principles of multiculturalism and multiethnicity in the educational system of Montenegro through further strengthening the capacity of educational institutions. According to the report, this is accomplished by establishing normative and resource-technical assumptions for the study of minority languages in educational institutions, improved multicultural and multi-ethnic character of educational curricula and through strengthened capacities of teaching staff in educational institutions.

The report also indicates that there have been efforts to translate primary and secondary general education textbooks from Montenegrin to Albanian, while the teaching curricula in institutions that offer classes in the Montenegrin language now cover topics from minority peoples’ literature, history, art, and cultures in addition to the mother tongue. In schools, the open curriculum includes 20% of teaching content created by teachers, parents, and schools in collaboration with the local community. This significantly contributes to the realization of the right to study the specificities of language, culture, history, and other peculiarities of minorities and the environment where the school operates.

Moreover, according to the report the Ministry of Human and Minority Rights, in collaboration with the Ministry of Education, implemented seminars for teachers on cutting-edge integrative teaching techniques with a focus on multiculturalism. Bilingual classes are offered at all levels by the Ministry of Education in both Montenegrin and Albanian. A working group was established in collaboration with the Ministry of Education for the analysis and proposal of programs for education in the language of members of the Croatian minority in Montenegro in regular classes in primary and secondary general schools that deal with the language and culture of the minority population. In order to incorporate the history, language, culture, and traditions of the Croatian population in Montenegro into the general curriculum, changes to the curriculum were also recommended.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 19§12 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

The Committee takes note of the information contained in the report submitted by Montenegro. It notes that this State has only accepted Article 27§1a of the Charter.

The Committee recalls that no targeted questions were asked for Article 27§1 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral, or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion, the Committee found that the situation in Montenegro was in conformity with Article 27§1a of the Charter, pending receipt of the information requested, i.e. on the implementation of the Law on Employment and Exercising Rights with respect to Unemployment Insurance, and to whether there are placement services, information programmes or training opportunities for workers with family responsibilities. (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the questions raised in its previous conclusion.

Employment, vocational guidance and training

The Committee previously (Conclusions 2019 and 2015) requested information on the implementation of the Law on Employment and Exercising Rights with respect to Unemployment Insurance. It also asked (Conclusions 2019) for the next report to specify whether there are placement services, information programmes, or training opportunities for workers with family responsibilities.

In its reply, the report states that since 30 April 2019, the Law on Mediation in Employment and Rights During Unemployment (Official Gazette No. 24/19) has been in effect. The employment policy outlined in the mentioned law is implemented by the Employment Agency of Montenegro. The employment policy includes adult education and training, employment incentives, direct job openings, entrepreneurship incentives, and additional measures adopted depending on the demands of the labour market. The employment policy programs involve unemployed persons, workers who lost their jobs due to structural, economic, or technological changes, or vulnerable groups such as young persons, women, and recipients of social benefits. In addition, the report provided statistical data on participants in the program during the reference period.

As regards the persons with family responsibilities, a pilot project "Activating Women" has been implemented since 2021, which involved 121 persons between the ages of 25 and 49 who had preschool-aged children.

The Committee recalls that in its conclusion on Article 10§3 of the Charter (Vocational training and retraining of adult workers), it considered that it had not been established that vocational training and retraining was guaranteed for adult workers (Conclusions 2020).

The Committee notes the information on vocational training programs provided in the report. According to the government, during the reference period, vocational training was offered to 12,288 jobseekers with higher education, 7,513 of whom were women (61.14%). Also, 490 young persons participated in training programs.

The Committee recalls that under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining, and re-entering employment since these persons may face difficulties in the labour market due to their family responsibilities (Conclusions 2005, Sweden). Therefore, measures need to be taken by States Parties to ensure that workers with family responsibilities are not

discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training (Conclusions 2005, Estonia). Actions must be taken to promote training aimed at facilitating the remaining and the reintegration of workers with family responsibilities in the employment market. However, when the quality of standard employment services is adequate, there is no need to provide extra services for people with family responsibilities (Conclusions 2003, Sweden).

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had an impact on the rights of workers with family responsibilities to equal opportunities and treatment, in particular on the possibilities to work remotely and its consequences.

In its reply, the report states that during the pandemic, Article 42 of the Labour Law was fully applied. According to the mentioned provision, if the nature of the activity permits it, work may be performed outside the employer's premises (teleworking or working from home). Employers are required to preserve records of such employment contracts and to notify the labour inspectorate. Additionally, in line with Article 103 of the Labour Law, workers were entitled to compensation for lost wages during absence from work without their fault, which amounted to 60% of the average salary earned over the preceding six months and could not fall below the minimum wage in the State.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 27§1 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 2 - Parental leave

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

The Committee recalls that no targeted questions were asked for Article 27§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral, or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion, the Committee considered that the situation in Montenegro was not in conformity with Article 27§2 of the Charter on the ground that the legislation does not provide for an individual, non-transferable right to parental leave for each parent (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity.

Entitlement to the parental leave

In its previous conclusion, the Committee found that the situation was not in conformity on the ground that the legislation does not provide for an individual, non-transferable right to parental leave for each parent (Conclusions 2019).

In its reply, the report states that since 7 January 2020, provisions on parental leave that are incorporated in the Labour Law, are in line with the Council Directive 2010/18 (EU). According to Article 127 of the Labour Law, parental leave is the right of each parent to take time off work to care for the child. It may be taken after the end of maternity leave until the child becomes one year old. Since 70 days of maternity leave are taken after the baby is born, it means that parental leave may last 295 in total. Each parent has the right to use parental leave in equal portions (147.5 days). Parental leave that one parent started using may be transferred to the other parent following a 30-day waiting period. Article 128 provides for exceptional circumstances under which only one parent may use all of the parental leave (another parent is deprived of parental rights, declared missing, seriously ill, engaged in a military mission outside the country, etc.).

The Committee concludes from the report that the non-transferable part of parental leave is at least 30 days.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had an impact on the rights of workers with family responsibilities to parental leave.

In its reply, the report states that the Covid-19 pandemic had no impact on how the Labour Law's provisions on parental leave were applied in practice.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 27§2 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

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

The Committee recalls that no targeted questions were asked for Article 27§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral, or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

As the previous conclusion (Conclusions 2019) found the situation in Montenegro to be in conformity with Article 27§3 of the Charter, there was no examination of the situation in 2023 on this point. Therefore, the Committee reiterates its previous conclusion.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on

- whether the Covid-19 crisis had an impact on the prohibition of dismissal on the ground of family responsibilities and whether there were any exceptions to the prohibition of dismissal on the ground of family responsibilities during the pandemic and
- whether a ceiling on compensation for unlawful dismissals was applied on the ground of family responsibilities during the Covid-19 crisis.

In respect of both questions, the report states that the Labour Law provisions on unlawful dismissal and compensation were fully in effect.

Conclusion

The Committee concludes that the situation in Montenegro is in conformity with Article 27§3 of the Charter.