



March 2024

## **European Social Charter (REVISED)**

European Committee of Social Rights

Conclusions 2023

**REPUBLIC OF MOLDOVA**

*This text may be subject to editorial revision.*

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter, 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 the Republic of Moldova, which ratified the Revised European Social Charter on 8 November 2001. The deadline for submitting the 18th report was 31 December 2022 and the Republic of Moldova submitted it on 6 March 2023.

The Committee recalls that the Republic of Moldova was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, 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.

The Republic of Moldova has not accepted the following provisions from the above-mentioned group: 7§5, 7§6, 19§§1-6, 19§9-12, 27§1, 27§3, 31§§1-3.

The conclusions relating to the Republic of Moldova concern 19 situations and are as follows:

- 5 conclusions of conformity: Articles 7§2, 7§4, 8§§2-4.
- 14 conclusions of non-conformity: 7§1, 7§3, 7§§7-10, 8§1, 8§5, 16, 17§§1-2, 19§§7-8, 27§2.

Conclusions and reports are available at [www.coe.int/socialcharter](http://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 the Republic of Moldova.

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 2015), the Committee considered that the situation was not in conformity on two grounds:

- the definition of light work in national law is not sufficiently precise;
- the legislation on the prohibition of employment under the age of 15 is not enforced effectively.

As regards the first ground of non-conformity, the Committee has previously (Conclusions 2019) noted that there was no list of light works that could be performed by children under the age of 15. In the absence of any new information in the report, the Committee reiterates its conclusion of non-conformity on this point.

As regards the second ground of non-conformity, the Committee has previously asked for disaggregated data on the number and nature of violations detected by the State Labour Inspectorate, as well as on sanctions imposed for breaches of the regulations regarding the prohibition of employment of children under the age of 15. It notes that the report provides information on the results of the inspections carried out by the Labour Inspectorate during the reference period. The labour inspectors identified problems linked to employment contracts in respect of persons under the age of 18. According to the report, during inspections, 34 labour law violations were found in relation to 16 employees under 18 years of age, one of which was employment of persons under 15 years of age, in violation of Article 46 (4) of the Labour Code.

The Committee notes however the information provided in the report predominately relates to the employment of minors under the age of 18 and not under the age of 15.

The Committee notes from Direct Request (CEACR) – adopted in 2020, published at the 109th ILC session (2021) Minimum Age Convention, 1973 (No. 138) that, according to CEACR, there has been a marked decrease in the number of inspectors, restrictions in the performance of labour inspections, and a decrease in the number of inspections carried out in the agriculture, forestry and fisheries sectors.

The Committee considers that the report does not provide evidence to establish that the legislation prohibiting employment of children under the age of 15 is enforced effectively in practice through inspections, detection, and monitoring. Therefore, the Committee reiterates its previous finding of non-conformity on this ground.

### *Conclusion*

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

- the definition of light work in national law is not sufficiently precise;
- the legislation on the prohibition of employment under the age of 15 is not effectively enforced.

## **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 the Republic of Moldova.

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 reply to the Committee's question in the previous conclusion (Conclusions 2019) the report states that during the inspections, 34 labour law violations were found in relation to 16 employees under 18 years of age, including the use of persons work under the age of 18 in work with heavy, harmful and/or dangerous working conditions, in violation of the provisions of Article 255 par. (1) of the Labour Code and Government Decision No. 541 of July 07, 2014 on the approval of the Nomenclature of works with heavy, injurious and/or dangerous working conditions in which it is prohibited to use the work of persons under 18 years of age for works in manual lifting and carrying of weights.

The inspectors have detected unlawful employment of 4 natural persons, for certain periods of time in conditions forbidden to persons under 18 years of age. When the labour inspectors closed the inspection files, the minors were no longer working. The labour inspectors drew up a plan to remedy the infringements and issued orders prohibiting the recruitment of persons under the age of 18 to work in contravention of the law.

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova.

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 following grounds:

- the daily and weekly duration of work permitted to children subject to compulsory education is excessive and therefore cannot be qualified as light;
- it has not been established that children who are still subject to compulsory education are guaranteed at least two consecutive weeks of rest during the summer holidays.

As regards the first ground, the Committee has previously (Conclusions 2019 and 2015) noted that according to Articles 96 (2) and 100 (2)-(3) of the Labour Code, the reduced working time for persons between 15 and 16 years of age shall be maximum 5 hours per day and 24 hours per week. Working time for persons between 16 and 18 years of age shall be maximum 7 hours per day and 35 hours per week (Conclusions 2015). The Committee notes that the report does not provide any new information about this issue. Therefore, the Committee reiterates its previous finding of non-conformity.

As regards the second ground, the Committee notes that the report does not provide any information. Due to the failure to provide the requested information , the Committee concludes that the situation in Moldova is not conformity with Article 7§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Moldova of their reporting obligations under Article C of the Charter.

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§3 of the Charter on the ground that the daily and weekly duration of work permitted to children subject to compulsory education is excessive and therefore may deprive them of the full benefit of education.

Due to the failure to provide the information listed below the Committee concludes that the situation in the Republic of Moldova is not conformity with Article 7§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter. The information is missing regarding whether children who are still subject to compulsory education are guaranteed at least two consecutive weeks of rest during the summer holidays.

## **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 the Republic of Moldova.

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.

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

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova is in conformity with Article 7§4 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 the Republic of Moldova.

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).

The Committee deferred its previous conclusion, pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the number and nature of violations detected and sanctions applied by the labour inspectors in relation to paid annual holidays of young workers. The report does not contain the information requested.

Due to the failure to provide requested information on the number and nature of violations detected, as well as the sanctions imposed for breach of the regulations regarding paid annual holidays of young workers under 18 years of age, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§7 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### *Conclusion*

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§7 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- the number and nature of violations detected, as well as the sanctions imposed for breach of the regulations regarding paid annual holidays of young workers under 18 years of age.

## **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 the Republic of Moldova.

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).

The Committee deferred its previous conclusion pending receipt of the information requested (Conclusions 2019).

The Committee asked for more precise information and disaggregated data on the findings of the Labour Inspectorate in relation to prohibition of night work for young workers under 18 years of age, including the nature and number of violations detected and sanctions imposed. The report does not provide the requested information.

Due to the failure to provide requested information on the number and nature of the violations detected, as well as of the sanctions imposed for breach of the regulations regarding prohibition of night work for young workers under 18 years of age, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§8 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### *Conclusion*

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§8 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- the number and nature of the violations detected, as well as of the sanctions imposed for breach of the regulations regarding prohibition of night work for young workers under 18 years of age.

## **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 the Republic of Moldova.

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).

The Committee deferred its previous conclusion pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young persons under 18 years of age. The report does not provide the information requested.

Due to the failure to provide requested information on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young persons under 18 years of age, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§9 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### *Conclusion*

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§9 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young persons under 18 years of age.

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 10 - Special protection against physical and moral dangers*

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 7§10 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”).

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 and targeted questions.

### ***Protection against sexual exploitation***

The Committee previously requested that the next report indicate whether legislation criminalised all acts of sexual exploitation of children under the age of 18 and the number of child victims. It also asked if a child victim of sexual exploitation, whether or not related to trafficking, could be held criminally liable. It also requested information on measures taken to tackle the problem of child sex tourism. It considered that if this information was not provided in the next report, there would be nothing to establish that the situation in the Republic of Moldova was in conformity with Article 7§10 of the Charter (Conclusions 2019).

In the targeted questions, the Committee asked for updated information on measures taken to strengthen the protection of children, including migrant, refugee, and displaced children, from sexual exploitation and abuse (in particular, in response to the risks posed by the Covid-19 pandemic) during the reference period, including information on the incidence of such abuse and exploitation.

The report provides no information in reply to the questions asked in the previous conclusion. The Committee notes from other sources (GRETA Evaluation Report, Third evaluation round, GRETA(2020)11, 3 December 2020) that Moldovan legislation contains a specific provision on the non-punishment of victims of trafficking in human beings.

Due to the failure to provide the requested information on whether legislation criminalises all acts of sexual exploitation of children under the age of 18 and the number of child victims, on measures taken to tackle the problem of child sex tourism, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

In reply to the targeted question, the report states that a national conference on capacity building of social workers in the implementation of the Lanzarote Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse in the Republic of Moldova was organised in February 2020. Following its feedback, three training programmes were held in 2021. The Ministry of Labour and Social Protection developed the Handbook on Child Protection during the Covid-19 Pandemic, which was intended for local authorities, service providers, child protection specialists and people caring for children.

The report further states that in 2021, guidelines for the practical implementation of the intersectoral cooperation mechanism for identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking, were approved. In 2020, the total number of referrals/self-referrals was 6,828. In 2021, the total number of referrals/self-referrals was 6,714.

The report states that an information campaign was conducted during the reference period, which included several activities on the prevention of child sexual abuse.

The report states that the legislation in the field of child protection expressly state that all children are equal in rights and benefit from protection without any discrimination.

### ***Protection against the misuse of information technologies***

The Committee has previously asked for information on the developments in legislation concerning the improvement of the protection of children against sexual exploitation online. It considered that if this information was not provided in the next report, there would be nothing to establish that the situation in the Republic of Moldova was in conformity with Article 7§10 of the Charter (Conclusions 2019).

In the targeted question, the Committee asked for information on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).

Due to the failure to provide the requested information on the developments in legislation concerning the improvement of the protection of children against sexual exploitation online and on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming), the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### ***Protection from other forms of exploitation***

The Committee has previously asked for updated information regarding the number of children victims of human trafficking and measures taken to combat child trafficking. It also asked what measures had been taken to protect and assist children in vulnerable situations, with particular attention to street children and children at risk of child labour, including those in rural areas. The Committee considered that if this information was not provided in the next report, there would be nothing to establish that the situation in the Republic of Moldova was in conformity with Article 7§10 of the Charter (Conclusions 2019).

The report does not provide the information requested. The Committee notes from other sources (GRETA Evaluation Report, Third evaluation round, GRETA(2020)11, 3 December 2020) that the number of identified victims of trafficking was 60 in 2018 and 109 in 2019. From the same source, the Committee notes that the Moldovan institutions carry out a series of awareness-raising activities focused on prevention of trafficking in human beings.

Due to the failure to provide the requested information on the number of children victims of human trafficking and measures taken to combat child trafficking, on measures taken to protect and assist children in vulnerable situations, with particular attention to street children and children at risk of child labour, including those in rural areas, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### ***Covid-19***

In the context of the Covid-19 pandemic, the Committee asked for information on the impact of the pandemic on the monitoring of the exploitation and abuse of children, as well as measures taken to strengthen monitoring mechanisms.

The Committee recalls that Article 7§10 of the Charter guarantees protection against sexual and other exploitation of children as well as protection against the misuse of information

technology and social media (for the purposes of online bullying, child pornography, grooming, harassment, etc.), which is particularly pertinent in view of the acceleration of digitalisation and online activity brought about by the pandemic (Statement on Covid-19 and social rights, 24 March 2021).

The report provides information about the regulations adopted in 2022, which are outside the reporting period for the purposes of the present reporting cycle.

### *Conclusion*

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- whether all acts of sexual exploitation of children are criminalised and the number of child victims;
- what measures have been taken to combat the problem of child sex tourism;
- on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming);
- on the number of child victims of trafficking and measures taken to combat child trafficking;
- on measures taken to protect and assist children in vulnerable situations.

## **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 the Republic of Moldova.

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").

In its previous conclusions (Conclusions 2019), the Committee found that the situation in the Republic of Moldova was not in conformity with Article 8§1 of the Charter on the ground that the amount of maternity benefits was manifestly too low in the public sector.

### ***Right to maternity leave***

The Committee had previously concluded that the situation in the Republic of Moldova was in conformity with the Charter on this point. Therefore, there was no examination of the situation in 2023 and the Committee reiterates its previous conclusion.

### ***Right to maternity benefits***

In its previous conclusion, the Committee found that the situation in the Republic of Moldova was not in conformity with Article 8§1 of the Charter on the ground that the amount of maternity benefits in the public sector was inadequate. The Committee also asked for information on the median equivalised income and the minimum amount of maternity benefits during the reference period to be systematically included in all reports concerning Article 8§1 of the Charter (Conclusions 2019).

The report does not provide any figures or statistics or specific information in response to this request.

The Committee recalls that, under Article 8§1, the level of income-replacement benefits should be fixed so as to stand in reasonable proportion to the previous salary (these shall be equal to the previous salary or close to its value, and not be less than 70% of the previous wage) and it should never fall below 50% of the median equivalised income (Statement of Interpretation on Article 8§1, Conclusions 2015). If the benefit in question stands between 40% and 50% of the median equivalised income, other benefits, including social assistance and housing, will be taken into account. On the other hand, if the level of the benefit is below 40% of the median equivalised income, it is manifestly inadequate and its combination with other benefits cannot bring the situation into conformity with Article 8§1.

In the absence of the Eurostat median equivalised income indicator, the Committee notes from official national statistics that, in 2021, the average gross monthly earnings were MDL 8,979.80 a year (€464,03 at the rate of 31 July 2022). The Committee also notes that the minimum wage in 2022 was MDL 3,500 (€180.8) per month, which was unified both for private sector workers and for public sector workers. The Committee observes that the minimum wage falls below the 50% of the average gross monthly earnings and therefore, the amount of maternity benefit of women earning the minimum wage also falls below 50% of the average gross monthly earnings. The Committee therefore considers that the situation in the Republic of Moldova is not in conformity with Article 8§1 of the Charter on the ground that the amount of maternity benefits is inadequate.

### ***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.

The report indicated that there were no particular rules adopted during the Covid-19 pandemic in this respect.

#### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 8§1 of the Charter on the grounds that the amount of maternity benefits is inadequate.

## **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 the Republic of Moldova.

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”).

The Committee had deferred its previous conclusion (Conclusions (2019) pending information on whether the prohibition on the dismissal of women who are pregnant or on maternity leave also applies to public sector employees and any updated information on the remedies available to women unlawfully dismissed for reasons related to their pregnancy or during maternity leave.

### ***Prohibition of dismissal***

The Committee previously asked for confirmation that the prohibition on the dismissal of women who are pregnant or on maternity leave also applies to public sector employees (Conclusions 2019). The report states that Article 86 par. (2) of the Labour Code prohibits the dismissal of women who are pregnant or on maternity leave, with children under the age of four, and persons who are on childcare leave. The Committee understands that there are no exceptions and that the same regime applies to public sector workers.

### ***Redress in case of unlawful dismissal***

The Committee previously requested updated information on remedies (Conclusions 2019). The Committee notes that there has been no change to the situation.

### ***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 provides no information on this issue.

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova.

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 the Republic of Moldova 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 the Republic of Moldova 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 the Republic of Moldova.

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 not in conformity with Article 8§4 of the Charter on the ground that it had not been established that regulations on night work offer sufficient protection for employed women who are pregnant, have recently given birth or are nursing their infant. (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the Conclusion of non-conformity and 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 case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.

The Committee recalls that the Labour Code prohibits night work for pregnant women, women who are on maternity leave or have children below three years old (Conclusion 2019). However no information was submitted as to whether there were exceptions to this rule, whether the women concerned had the right to be transferred to day time work and what rules applied in the event such transfer is not possible.

According to the report pregnant women, women who are breastfeeding or have children under three years of age are exempted from night work under the Labour Code and will be assigned to day time work, with the maintenance of their previous average salary. If transfer to day time work is not possible women in this situation shall be put on leave and receive their previous average salary.

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova.

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 not in conformity with Article 8§5 of the Charter on the ground that it had not been established that pregnant women, women who have recently given birth and who are breastfeeding their infants are entitled to paid leave if it is impossible to transfer them to lighter duties; and in case of reassignment to a different post, the law guarantees the employees’ right to return to their previous employment at the end of the maternity/nursing period (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the Conclusion of non-conformity and 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 legislation provides that employers are obliged to take measures to protect pregnant women, women who have recently given birth and who are breastfeeding from hazards at the workplace which specifically affect them. If it is not possible to remove all risks the employer must assign the employee to other duties while maintaining their previous salary. If no suitable alternative employment is available the employee must be placed on leave with the previous average salary.

No information is provided as to whether at the end of the protected period the women is entitled to return to her previous post. Due to the failure to provide the information requested the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 8§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter;

### *Conclusion*

Due to the failure to provide the information listed below the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 8§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter;

Information missing:

- whether at the end of the protected period the woman is entitled to return to her previous post.

## **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 the Republic of Moldova.

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, the Committee found that the situation in the Republic of Moldova was not in conformity with Article 16 of the Charter on the grounds that:

- there was no adequate protection for women victims of domestic violence, in law and in practice;
- equal treatment with regard to access to family allowances was not guaranteed with respect to nationals of all the other States Parties;
- family benefits did not ensure economic protection of a significant number of families by appropriate means;
- it had not been established that Roma families were adequately protected with respect to housing.

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***

In its previous conclusion (Conclusions 2019), the Committee asked that the next report contain complete and updated information on the rights and obligations of spouses, the settlement of disputes and mediation services.

Due to the failure to provide requested information, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

#### ***Domestic violence against women***

The Committee notes firstly that the Republic of Moldova has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which entered into force in the Republic of Moldova in May 2022.

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was not in conformity with the Charter on the ground that there was no adequate protection for women victims of domestic violence, either in law or in practice. The Committee requested comprehensive and updated information on all aspects of the problem of domestic violence, including statistical data and relevant examples from case law, so that it could, in particular, assess the interpretation and application of the legislation and its impact on the prevention and reduction of domestic violence.

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

The report mentions the adoption of the new 2021-2022 national action plan for implementing the strategy to prevent and combat domestic violence; awareness-raising campaigns in this area; activities to strengthen the expertise of professionals in various fields (justice, law

enforcement, social work, etc.); the implementation of projects and the strengthening of partnerships between government institutions and civil society.

Victims of domestic violence and human trafficking (and those at risk) have access to a protection and assistance centre, where a range of services are available (placement; protection; social, psychological and legal assistance). The Committee notes that in 2021, 140 victims of domestic violence were placed in such a centre.

With regard to the statistical data, the report states in particular that in 2021, 2,609 cases of domestic violence were recorded by the police (an increase of 1.56% on 2020); of these cases, 947 were criminal offences and 1,662 were minor offences.

In addition, the report indicates that in 2021, 773 protection orders were issued by the courts, 373 of which were breached by the perpetrators of domestic violence, resulting in criminal proceedings. Furthermore, the police issued 5,851 emergency protection orders, and prosecuted 726 perpetrators of domestic violence for breaching these orders.

The report adds that in 2021, the police carried out prevention activities with 4,938 persons (3,942 in 2020) who admitted to violent behaviour in their family relationships, and electronically monitored 502 perpetrators of domestic violence. The Committee notes that, according to the report, the reoffending rate for domestic violence has fallen from 50% in 2020 to 19% in 2021, thanks to the introduction of electronic surveillance.

The Committee also notes that, in its Concluding Observations on the 6<sup>e</sup> periodic report of the Republic of Moldova, the Committee on the Elimination of Discrimination against Women (CEDAW) is or remains concerned, *inter alia*: by the high number of cases of gender-based violence against women, in particular domestic violence; by the fact that cases of gender-based violence against women go unreported, in particular cases of domestic violence, for fear of being stigmatised and re-victimised; and by the provisions of the Code of Offences that reduce the criminal liability of perpetrators of domestic violence and limit women's access to criminal justice (CEDAW/C/MDA/CO/6, 10 March 2020, §§12 and 22).

The Committee notes the measures taken in 2022 (outside the reference period).

Despite the information provided, the Committee reiterates its previous conclusion of non-conformity with Article 16 of the Charter on the ground that the measures taken do not ensure an adequate protection of women against domestic violence.

## ***Social and economic protection of families***

### ***Family counselling services***

In its previous conclusions (Conclusions 2019 and 2015), the Committee asked whether family counselling services were available throughout the country.

Due to the failure to provide requested information, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### ***Childcare facilities***

In its previous conclusion (Conclusions 2019), the Committee asked for updated information on the organisation of childcare, notably the distribution of childcare facilities in the country, coverage in relation to the number and proportion of children aged 0-6 and the cost of childcare to parents.

Due to the failure to provide requested information, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee

considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### ***Family benefits***

#### ***Equal access to family benefits***

In its previous conclusions (Conclusions 2019 and 2017), the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that equal treatment of nationals of all other States Parties to the Charter regarding access to family allowances was not guaranteed.

In a targeted question, the Committee asked whether a condition of length of residence was imposed on nationals of other States parties residing legally in the country in order to be entitled to family benefits.

The report states that under the terms of Law no. 315 on social benefits for children, all children, including nationals of States Parties to the Charter and stateless persons residing in the Republic of Moldova, are entitled to social benefits.

Due to the failure to provide requested information on whether the legislation provides for a condition of residence for the granting of family allowances to nationals of other States parties to the Charter lawfully residing in the Republic of Moldova, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

#### ***Level of family benefits***

In its previous conclusion, the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that the system of family benefits did not ensure the economic protection of a significant number of families by appropriate means. It requested that the next report indicate the amount of the median equivalised income or a similar index, as well as the percentage of families receiving child benefit.

In addition, 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.

Due to the failure to provide requested information on the amount of the median equivalised income or a similar index, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

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.

The Committee notes from MISSCEO that in 2021, the monthly amount of child benefit is 30% of the average wage over the last 12 months, but will not be less than 740 MDL per month (€37).

Moreover, according to MISSCEO, the child allowance is paid from birth until the child is 2 years old for uninsured persons and until the child is 3 years old for insured persons.

The Committee considers that the situation is not in 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, the Committee asked that the next report include measures taken to ensure the economic protection of Roma families and single-parent families, accompanied by figures (Conclusions 2019).

Due to the failure to provide requested information, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

In addition, in a targeted question, the Committee asked what measures have been taken to ensure that vulnerable families can meet their energy needs, in order to guarantee their right to housing of an adequate standard (which includes access to essential services).

The report states that, as part of efforts to reduce the impact of rising energy prices on vulnerable consumers, a law and a government decision (the references of which are specified in the report) were adopted in 2022. The aim is to reduce the energy vulnerability of consumers, particularly those affected by rising energy prices. The law establishes a fund that will provide three types of measures to help vulnerable consumers pay their energy bills and improve their energy efficiency. These measures include: a monthly compensation to cover part of the cost of heating, electricity and/or gas; an energy efficiency grant for the replacement of old appliances, windows, heating systems or home insulation; and other social assistance measures that the government may decide.

Among its targeted questions, the Committee asked whether there were plans to maintain or withdraw any specific temporary measures put in place to provide financial support to vulnerable families during the covid-19 pandemic, and, if withdrawn, what effect this should have on vulnerable families.

The report states that the Government has taken a decision to provide financial support to people affected by the Covid-19 pandemic, such as those who had to take days off work to look after their children, for reasons of technical unemployment or to be vaccinated.

### ***Housing for families***

The Committee has previously requested that the next report provide figures on the overall availability of social housing (number of applicants for social housing and number of persons who have been allocated social housing). In this regard, it noted the concerns expressed by the UN Committee on Economic, Social and Cultural Rights about the lack of social housing for marginalised groups and individuals (Concluding Observations on the 3rd periodic report of the Republic of Moldova, 6 October 2017, §§ 54-55). The Committee also requested that the next report contain information on Law No. 75/2015, in particular regarding the existence of any remedy (judicial or extrajudicial) to assert one's right to adequate housing.

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

The report does not provide figures on the number of applicants for social housing or the number of people who have been allocated social housing. Nor does it state whether Law No. 75/2015 provides any means of appeal for people who are refused social housing or who are dissatisfied with the conditions of their housing. It merely sets out the criteria and categories of beneficiaries of social housing, as well as the number of houses built and planned as part of the project financed by the Council of Europe Development Bank. It also provides the percentage of the population (24.8%) with housing in the country in 2018, without specifying whether it is adequate housing or not.

Due to the failure to provide requested information on the overall availability of social housing and the existence of any remedy to assert one's right to adequate housing, the Committee

concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

In addition, the Committee has previously requested (Conclusions 2015 and 2019) information concerning the legal protection of persons under threat of expulsion, in the light of the principles established in its case law on this point. Due to the failure to provide requested information, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

With regard to access to housing for Roma families, the Committee considered that the situation was not in conformity with Article 16 of the Charter and requested that the next report contain information on the measures taken to remedy the difficulty of access to housing for Roma. It also asked that the next report provide detailed information on the impact of the Roma Action Plan on improving the housing conditions of Roma families, as well as on the funding allocated to its implementation.

Finally, in its previous conclusion (Conclusions 2019), the Committee asked that the next report include information on the housing situation of refugee families. It also asked to be informed of the impact of the action plan for 2016-2020, which aimed to improve access for non-citizens, including migrants and refugees, to education, employment, housing, healthcare and basic services without discrimination.

Due to the failure to provide requested information on the measures taken to remedy the difficulty of access to housing for Roma and the housing situation of refugee families, the Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 16 of the Charter on the grounds that:

- the measures taken do not ensure an adequate protection of women against domestic violence ;
- 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 the Republic of Moldova is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

Information missing:

- the rights and obligations of spouses, settlement of disputes and mediation services ;
- the availability of family counselling services throughout the country;
- the organisation of childcare, notably the distribution of childcare facilities across the country, the coverage with respect to the number and proportion of children aged 0-6 and the cost of childcare to parents;
- a condition of length of residence imposed on nationals of other States Parties residing legally in the country in order to be entitled to family benefits;
- the median equivalised income or a similar index;
- measures taken to ensure the economic protection of Roma families and single-parent families;
- the overall availability of social housing (number of applicants for social housing and number of persons who have been allocated social housing);

- the existence of any remedy (judicial or extrajudicial) to assert one's right to adequate housing;
- legal protection for people threatened with eviction;
- access to housing for Roma families;
- the housing situation of refugee 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 the Republic of Moldova.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 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***

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 the national legal framework fully guarantees everyone’s right to citizenship of the Republic of Moldova. In terms of this right, in order to avoid statelessness, national legislation provides various ways for children to obtain Moldovan citizenship.

The report further states that the Ministry of Health, with the support of the e-Government Agency as part of a World Bank project, is re-organising public birth and death registration services. The data recorded by the medical institutions will be transmitted electronically to the Public Services Agency, on the basis of which the electronic birth certificate will be generated. This will facilitate birth registration for all groups.

### ***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.

The report states that all citizens are entitled to healthcare services. In order to support families and children with various medical, social and psychosocial problems, the Ministry of Health has established two early intervention centres.

The report also states that Roma people benefit from the same medical services as the other citizens of the Republic of Moldova. Moreover, the Interethnic Relations Agency has drawn up

a report on the progress made by the authorities under the 2016-2020 Action Plan to support the Roma population in the Republic of Moldova. The main achievements of the Action Plan are as follows: considerable simplification of the process of establishing identity and obtaining identity documents; increase in the number of Roma children in kindergartens and schools; significant strengthening of the Roma Community Mediators Institution.

The report further states that the Interethnic Relations Agency organises various activities to combat discrimination and promote equal opportunities for children from vulnerable groups: International Day of Tolerance; International and National Holocaust Remembrance Day; International Roma Day and International Children's Day.

The report also states that deinstitutionalisation and inclusion programmes are implemented for persons with disabilities.

The Committee further notes that in 2021, 24.4% children were at risk of poverty or social exclusion (in comparison, the EU average was 24.4% in 2021).

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 has previously asked what assistance was given to children in an irregular migration situation to protect them against negligence, violence or exploitation. It considered that if this information was not provided in the next report, there would be nothing to establish that the situation in the Republic of Moldova was in conformity with Article 17§1 of the Charter. The Committee also requested information on accommodation facilities for migrant children, whether accompanied or not, including measures taken to ensure that children were accommodated in appropriate settings and had access to healthcare. The Committee requested information as to whether children who were in an irregular migration situation, accompanied by their parents or not, could be detained and, if so, under what circumstances. Finally, it asked whether the Republic of Moldova 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.

Due to the failure to provide requested information on assistance given to unaccompanied children in order to protect them from abuse and exploitation; on accommodation facilities for

children in an irregular migration situation; on whether children in an irregular situation have access to healthcare; on whether children in an irregular migration situation, accompanied by their parents or not, could be detained and, if so, under what circumstances, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova of their reporting obligations under Article C of the Charter.

The Committee notes from other sources (GRETA Evaluation Report, Third evaluation round, GRETA(2022)11, 3 December 2020) that age of a migrant child is determined by a forensic examination based on anatomical and physiological characteristics and a bone X-ray. The Committee notes that it has already stated that the use of bone testing to determine the age of unaccompanied foreign minors is inappropriate and unreliable (European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, decision on the merits of 24 January 2018, §113). In these circumstances, the Committee considers that the situation in the Republic of Moldova is not in conformity with Article 17§1 of the Charter on the ground that bone testing is used to assess the age of children in irregular migration situation.

In reply to the targeted question, the report provides information on the support given to Ukrainian children throughout 2022. The Committee takes note of this information but observes that it is outside the reference period for the purposes of the present reporting cycle.

### ***Rights of children in public care***

In its previous conclusion, the Committee asked whether the measures taken by the authorities have prevented children from being separated from their families for reasons of financial resources alone and whether there was a prohibition in law on children being removed from their family on grounds of financial resources. It also asked to be provided with information on changes in the number of children in public care as well as on the de-institutionalisation of children under the age of three and children with disabilities. Furthermore, it requested information on the monitoring of residential care and other types of alternative care. The Committee enquired about the measures taken to ensure that children left behind following the migration of their parents abroad received adequate care and support (Conclusions 2019).

The report states that the guardianship authorities must take all necessary measures to assist and support children and their families in order to prevent the separation of the child from family environment or, where appropriate, to (re)integrate the child into the family. Separation from the family can only be ordered if keeping the child with their parents is not possible or not in the best interests of the child. Priority is given to family-type services. In 2021, 761 children were placed with 382 professional parental assistants; 295 children were placed with 64 parent educators; 2,684 children were placed in guardianship services and 685 children were placed in institutions.

Due to the failure to provide requested information on the de-institutionalisation of children under the age of three and children with disabilities; on the measures taken to ensure that children left behind following the migration of their parents abroad receive adequate care and support, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova of their reporting obligations under Article C of the Charter.

### ***Children in conflict with the law***

The Committee has previously asked how many children on average were subject to non-punitive measures. It also requested that the next report provide updated information on children in conflict with the law, including information on the maximum length of pre-trial

detention. In addition, it asked whether children could be placed in solitary confinement, if so, for how long and under what circumstances (Conclusions 2019).

The Committee notes from other sources (UN Human Rights Council Working Group on the Universal Periodic Review, fortieth session, 24 January – 4 February 2022) that children may be placed in solitary confinement.

Due to the failure to provide requested information on the average number of children subject to non-punitive measures and under what circumstances and for how long children can be placed in solitary confinement, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova of their reporting obligations under Article C of the Charter.

The Committee notes that under Article 186 of the Code of the Criminal Procedure, the pre-trial detention of children cannot exceed eight months. The Committee recalls that it has previously found that an eight-month and seven-month period was not in conformity with the Charter (Conclusions XX-4, 2015, Denmark, Conclusions 2019, Slovak Republic). The Committee considers that in order to be in conformity with the Charter, the pre-trial detention of children should not exceed six months. The Committee therefore concludes that the situation in the Republic of Moldova is not in conformity with Article 17§1 of the Charter on the ground that the length of pre-trial detention of children is excessive.

#### *Conclusion*

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

- bone testing is used to assess the age of children in irregular migration situation;
- the length of pre-trial detention of children is excessive.

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on accommodation facilities for migrant children whether accompanied or not, including measures taken to ensure that children are accommodated in appropriate settings and had access to healthcare;
- on assistance given to unaccompanied children in order to protect them from abuse and exploitation;
- on whether children in an irregular migration situation, accompanied by their parents or not, could be detained and, if so, under what circumstances;
- on the de-institutionalisation of children under the age of three and children with disabilities;
- on measures taken to ensure that children left behind following the migration of their parents abroad receive adequate care and support;
- on the average number of children subject to non-punitive measures;
- under what circumstances and for how long children can be placed in solitary confinement.

## **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 the Republic of Moldova.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 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 the Republic of Moldova was not in conformity with Article 17§2 of the Charter on the grounds that the net enrolment rate in compulsory education was too low and the measures taken to ensure that Roma children were enrolled in mainstream education were insufficient (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 concluded that the situation in the Republic of Moldova was not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in compulsory education was too low. It also asked for information as to why the enrolment rates seemed to be decreasing. In addition, it asked that the next report provide updated information on enrolment rates, absenteeism and drop out rates as well as on measures taken to address the issues related to these rates (Conclusions 2019).

The report does not provide the information requested. The Committee notes from other sources (UNESCO database) that the enrolment rates in 2021 were as follows: 99.66% in primary education, 99.36% in lower secondary education and 84.23% in upper secondary education. The Committee considers that these rates are in conformity with the Charter.

### ***Costs associated with education***

The Committee has previously asked whether there was any assistance to cover the costs of education, such as the purchase of textbooks, uniforms. (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.

Due to the failure to provide the requested information on whether there is any assistance to cover the costs of education, such as the purchase of textbooks, uniforms, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova of their reporting obligations under Article C of the Charter.

In reply to the targeted question, the report states that private educational institutions are funded by their founders and tuition fees.

### ***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 concluded that the situation in the Republic of Moldova was not in conformity with Article 17§2 of the Charter on the ground that the measures taken to ensure that Roma children were enrolled in mainstream education were insufficient. It also asked that the next report provide comprehensive information on the situation of Roma children. In addition, the Committee asked whether children in an irregular migration situation had a right to education and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in the Republic of Moldova was in conformity with Article 17§2 of the Charter. It also asked what measures had been taken to ensure that children whose parents have gone abroad for work have access to and continue their education (Conclusions 2019).

The Committee reiterates its conclusion of non-conformity on the ground that the measures taken to ensure that Roma children are enrolled in mainstream education are insufficient.

Due to the failure to provide the requested information on whether children in an irregular migration situation have a right to education, and what measures have been taken to ensure that children whose parents have gone abroad for work have access to and continue their education, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova 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, in the past years, the Ministry of Education and Research has promoted several initiatives, such as the Children's Parliament, the Youth Parliament, the local children's and youth councils, Child rights monitoring groups, peer educator teams, media and community projects. At the national level, the National Council of Students is involved in identifying and solving issues that concern the students.

### ***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 the prevention of bullying is a part of the policy to prevent violence against children and adolescents in educational institutions. The Ministry of Education and Research developed a Methodology for preventing and combatting bullying at school. Several campaigns have been organised to prevent bullying in educational institutions. Furthermore, educational experts are required to train pupils to recognise and manage situations of bullying through two school subjects: "Personal Development" and "Education for Society".

### ***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, in order to ensure access to distance learning, the needs of pupils and teachers were established. Assistance was also provided for children in vulnerable situations. Financial resources were allocated for the implementation of construction projects and the provision of sanitary blocks in 16 schools.

### *Conclusion*

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 17§2 of the Charter on the ground that the measures taken to ensure that Roma children are enrolled in mainstream education are insufficient.

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Republic of Moldova 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 the Republic of Moldova of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- whether assistance to cover the costs of school, such as the purchase of textbooks or uniforms, is available;
- whether children in an irregular migration situation have a right to education;
- what measures have been taken to ensure that children whose parents have gone abroad for work have access to and continue their education.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 7 - Equality regarding legal proceedings*

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

The Committee points out that no targeted questions were asked in relation to Article 19§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 the previous conclusion (Conclusions 2019), the Committee deferred its conclusion, pending receipt of information on:

- who covers the cost of interpretation in cases where the defendant does not speak or understand the language of the proceedings.
- any available data on the use in practice of legal aid funded council and interpretation services.

In the previous conclusion (Conclusions 2019), the Committee considered that should the next report not provide comprehensive replies to the Committee’s questions, there would be nothing to show that the situation is in conformity with the Charter.

The report does not respond neither of the questions previously raised by the Committee. Due to the failure to provide the information as to who covers the cost of interpretation in cases where the defendant does not speak or understand the language of the proceedings and on any available data on the use in practice of legal aid funded council and interpretation services, the Committee concludes that the situation in the Republic of Moldova is not in conformity with the Charter. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter.

*Conclusion*

The Committee concludes that the situation in Moldova is not in conformity with Article 19§7 of the Charter due to the failure to provide the information listed below. The Committee considers that this failure to provide information amounts to a breach by the Republic of Moldova of their reporting obligations under Article C of the Charter. List of questions/Information missing:

- who covers the cost of interpretation in cases where the defendant does not speak or understand the language of the proceedings;
- any available data on the use in practice of legal aid funded council and interpretation services.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 8 - Guarantees concerning deportation*

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

The Committee points out that no targeted questions were asked in relation to Article 19§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 the previous conclusion (Conclusions 2019), the Committee concluded that the situation in the Republic of Moldova was not in conformity with Article 19§8 of the Charter on the ground that the law permits the expulsion of migrant workers in situations where they neither pose a threat to national security nor constitute a threat to public interest or morality. In the previous conclusion (Conclusions 2019), the Committee asked the next report to provide information on any legislative amendments concerning the criteria applied in the case of expulsion of foreign citizens.

In reply, the report states that Law No. 200 of 16 July 2010 on the regime of foreigners in the Republic of Moldova regulates the entry, stay, and exit of foreigners on/from the territory of the Republic of Moldova, the granting and extension of the right of residence, their repatriation, their documentation and stipulates coercive measures in case of non-compliance with the residence regime. The report also indicates that foreigners who have obtained the right of residence on the territory of the Republic of Moldova, but do not observe or do not meet the conditions provided for by Law No. 200, the Migration and Asylum Office of the Ministry of Internal Affairs can cancel by a reasoned decision, the right of residence in the territory, or revoke the right of temporary residence. The foreigner has the right to challenge the refusal to grant a right of residence in accordance with the Administrative Code.

The Committee recalls that in Conclusions 2015 and 2019, it took note that a number of provisions of the Contravention Code which can lead to a complementary punishment of expulsion under this Code were not directly related to the commissioning of a serious criminal offence, or involvement of activities which constitute a substantive threat to national security, the public interest or public morality – for example, Article 81 (employing staff who do not possess the required hygiene training), Article 326 (failing to meet the deadline for registering immovable property) and Article 339 (failing to meet the deadline for declaring a birth). The Committee considered that these offences were not sufficiently related to public order and did not constitute acceptable grounds for expulsion.

The Committee understands that the above-mentioned offences which are not sufficiently related to public interest or morality, and as such do not constitute acceptable grounds for expulsion, continue to apply and the relevant legislation (Art. 40 of the Contravention Code) was not amended during the reference period. The Committee therefore considers that the situation continues to be in non-conformity with the Charter in this respect.

*Conclusion*

The Committee concludes that the situation in the Republic of Moldova is not in conformity with the Charter on the ground that the law permits the expulsion of migrant workers in situations where their behaviour neither pose a threat to national security nor constitute a threat to public interest or morality.

## **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 the Republic of Moldova.

The Committee recalls that no targeted questions were asked in relation to 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 found that the situation in the Republic of Moldova was in conformity with Article 27§2 of the Charter, pending receipt of the information requested, i.e. what compensation and benefits are provided during parental leave periods, if a part of parental leave is non-transferable, and to provide a full update on parental leave (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.

### ***Entitlement to the parental leave***

In its previous conclusion (Conclusions 2019), the Committee asked for a full update on information on parental leave. It also asked whether fathers had a right to non-transferable leave and if so, for how long. From the information previously provided, the Committee understood that only mothers had the right to parental (childcare) leave.

The Committee recalls that the States Parties need to provide the possibility for either parent to take parental leave, as an important element for the reconciliation of professional, private and family life, that the national laws should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child, and that with a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent (Conclusions 2011, Armenia). Furthermore, the States Parties are under a positive obligation to encourage the use of parental leave by either parent (Conclusions 2015, Statement of Interpretation on Article 27§2).

From the information provided in the report, the Committee concludes that under Article 124 of the Labour Code, after the end of maternity leave, leave to care for a child until that child reaches the age of three can be granted to both parents – provided that the periods of leave taken by each parent do not overlap – to a grandparent, to a relative who takes care of the child, or to a guardian. In the event of twins, triplets, or multiple births, the partially paid childcare leave may be granted to both parents or to the insured persons mentioned above, upon written request. The employee may return to work, upon his or her own request, before the end of the partially paid childcare leave.

The report does not clearly indicate that a part of parental leave is non-transferable, i.e. reserved for each parent. The Committee, therefore, considers that the situation is not in conformity on this point.

### ***Definition, duration and conditions***

The Committee notes the information provided in the report under Article 27§2 on paternity leave, according to which, the provisions of Article 124 of the Labour Code ensure that paternity leave of 14 calendar days is granted during the first 12 months after the birth of the child. The paternity leave is paid from the State social insurance budget and cannot be lower than the average monthly income.

However, the Committee had already reminded the Government (Conclusions 2019, Moldova) that Article 27§2 provides for the right to parental leave, which is distinct from the maternity and paternity leave addressed under Article 8§1 of the Charter and focuses on the leave granted after the maternity leave. Therefore, the Committee notes that the correct approach would be for the reports to distinguish between these two rights and to provide distinctive information accordingly.

### ***Remuneration***

In its previous conclusions (Conclusions 2019 and 2015),<sup>1</sup> the Committee asked what financial compensation or benefits are provided during parental leave periods.

The Committee notes, that in the response to its question, the report refers to amounts set outside the reference period. It states that, starting with 1 September 2022, in accordance with Law No. 195/2022, there are several additional options for paid childcare (parental) leave. The monthly allowance for raising a child amounts to 90% of the income for the period from the date of the leave is granted until the child's first birthday. If a parent opts for parental leave until the child turns 2 years of age, 60% of the income is granted for the first 12 months, and 30% thereafter. If parental leave until the child reaches the age of 3 is selected, the benefit amounts to 30% of income.

### ***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 of workers with family responsibilities to parental leave.

The report did not refer to any impact of the Covid-19 crisis on parental leave.

### ***Conclusion***

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 27§2 of the Charter on the ground that the right to parental leave is not established as an individual right of each parent, a part of which is non-transferable.