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European Social Charter (REVISED)

European Committee of Social Rights

Conclusions 2023

ROMANIA

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 Romania, which ratified the Revised European Social Charter on 7 May 1999. The deadline for submitting the 22nd report was 31 December 2022 and Romania submitted it on 12 April 2023.

The Committee recalls that Romania 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.

Comments on the 22nd report by the Romanian Institute for Human Rights were registered on 7 August 2023. The reply from the Government to these comments was registered on 2 October 2023.

Romania has not accepted the following provisions from the above-mentioned group: 19§§1-6, 19§§9-12, 27§1, 27§3, 31§§1-3.

The conclusions relating to Romania concern 21 situations and are as follows:

- 9 conclusions of conformity: Articles 7§§1-2, 7§4, 7§8, 7§10, 8§1, 8§3, 19§7, 27§2.
- 12 conclusions of non-conformity: 7§3, 7§§5-7, 7§9, 8§2, 8§§4-5, 16, 17§§1-2, 19§8.

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

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

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

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

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

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was not in conformity on the ground that prohibition of working under the age of 15 was not enforced effectively.

In its previous conclusion, the Committee asked for information on the measures taken or envisaged to ensure that children engaged in domestic work or work in the home are protected against labour exploitation and on the manner in which their situation was monitored by the authorities, including precise data on the breaches identified and sanctions applied. It also asked for information on the situation of children working in the informal economy or performing physically demanding jobs, on how the situation is monitored by the authorities and on measures taken to prevent labour exploitation of children under the age of 15.

In this respect, the Committee notes from the report that the General Directorate for Social Assistance and Child Protection (GDSACP) is obliged to verify and ensure access to child services in the event child exploitation in the home is reported. The Public Social Assistance Service develops and implements a service plan for the child at risk.

The report also indicates that in line with the model promoted by ILO-IPEC, the child labour monitoring mechanism, as a first step, provides for the direct and regular observation of high-risk areas for the exploitation of child labour. At this stage, a social worker together with the police officer and the labour inspector, intervene by carrying out monitoring visits to the high-risk areas. In addition, the National Authority for the Protection of Children's Rights and Adoption (NAPCRA) centralises dangerous cases of work, which includes cases of exploitation through work in the home (domestic work). According to the report, in 2019, there were 10 cases of domestic work and in 2020, there were 31 cases. In 2018 and 2021, no cases of domestic work were recorded.

In its previous conclusion (Conclusions 2019), the Committee requested information on the situation of children working in the informal economy or performing physically demanding jobs, on how the situation is monitored by the authorities and on measures taken to prevent labour exploitation of children under the age of 15. The report states, in this respect, that, in 2021, the Local Intersectoral Teams (LITs) carried out 25 activities for the prevention of child labour exploitation with 16 655 beneficiaries including 6 413 children.

Conclusion

The Committee concludes that the situation in Romania is in conformity with Article 7§1 of the Charter.

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 Romania.

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

In its previous conclusion (Conclusions 2019) the Committee recalled that the situation in practice should be regularly monitored and asked that the next report provide information on the activities and concrete findings of the Labour Inspectorate in relation to the prohibition of employment under the age of 18 for dangerous or unhealthy activities, including in the above listed fields.

The Committee notes that the report provides information regarding the numbers of employers penalised for using the undocumented work of young person aged 15-18 during the reference period as well as the number of young persons involved in undocumented, including physically demanding work. According to the report the use of undocumented work performed by young person was sanctioned with a fine of RON 20.000 for each person thus identified and the matter was referred to the criminal investigation authorities.

Conclusion

The Committee concludes that the situation in Romania 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 Romania and the comments on the national report from the Romanian Institute for Human Rights .

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 in Romania was not in conformity with Article 7§3 of the Charter on the grounds that:

- children still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during the summer holidays;
- effective protection against the employment of children subject to compulsory education is not guaranteed.

In its previous conclusion, the Committee requested information on the conditions laid down in law (e.g. maximum duration of the activity), the measures taken by the authorities to ensure that children who are still subject to compulsory education are not prevented from attending school, as well as on cases of violations detected and sanctions applied. It notes from the report, in this respect, that the Government Decision No. 75/2015 defines the conditions under which children may be employed in the cultural, artistic, sports, advertising and modelling fields. These conditions include total permissible daily and weekly hours of activity and the obligatory breaks. The report states that no child who has carried out a paid activity in one these fields has been prevented from attending classes and that the educational establishments concerned have ensured the continuity of education for these children.

In reply to the Committee’s previous question, the report also states that the working time of children undertaking light work is limited to six hours a day and 30 hours a week, according to Article 10 of the Government Decision No 600/2007. Moreover, Article 3 of the Decision, in conjunction with Article 10, provides that young persons may only carry out light work that is not likely to interfere with their attendance at school, their participation in vocational guidance or training programmes, approved by the management of the educational establishment, or their capacity to benefit from the training received.

As regards the first finding of non-conformity, the Committee notes that the report does not provide any new information. Therefore, the Committee reiterates its previous finding on the ground that young people over 15 years of age who are still subject to compulsory education are not guaranteed at least two consecutive weeks free of any work during the summer holidays.

As regards the second finding of non-conformity, the Committee notes that in response to the Committee's question, the report provides information on dropout rates in secondary education and states that the school year 2019-2020 shows a significant decrease in the rate of dropouts compared to the previous years. In particular, the total dropout rate fell from 2.5% in 2018-2019 to 1.9% in 2019-2020. The Committee notes the measures taken to reduce the rate of school dropouts for Roma children and those from rural or disadvantaged areas. These measures include the development of the theme of diversity in the national curriculum, the promotion of culture traditional values in Roma communities, courses in the Romani language, and training courses for school mediators. Measures have also been taken to improve access to education for Roma children. These measures include the provision of places for Roma students for in higher education and vocational schools[AM1] , activities to monitor school segregation, promotion of education in Romani, etc.

The Committee considers that, firstly, the figures in the report concerning the dropout rates apply to the population as a whole and do not provide an accurate picture of the situation among Roma children. Secondly, despite the measures taken to improve the situation of Roma children in schools listed in the report, it has not been demonstrated that the participation in illegal work of Roma children still subject to compulsory education has decreased.

The Committee notes in UNICEF's Country Office Annual Report 2019 concerning Romania that the gross enrolment rate for preschool education increased between 2001 and 2018 from 66% to 91.4%. Preschool enrolment rates for Roma children are 47% lower than the national average. A total number of 339 639 children aged 6–18 years are out of school, and school completion rates are declining. Roma children are six times more likely than other Romanian children not to complete secondary education.

The Committee also notes from the comments provided by the Romanian Institute for Human Rights that the measures implemented to reduce the school dropout rate among Roma children and those from rural and disadvantaged areas are insufficient to enable children to continue their education. Although the law provides for free primary education, in reality, there are situation where multiple costs are incurred, such as for the purchase of school supplies, textbooks and clothing.

The Committee concludes that the situation is not in conformity with Article 7§3 of the Charter on the ground that the protection of Roma children from child labour so they can take full advantage of compulsory education is not guaranteed in practice.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 7§3 of the Charter on the grounds that:

- children who are still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during summer holiday;
- the protection of Roma children against child labour to fully benefit from compulsory education is not guaranteed in practice.

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 Romania.

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.

The Committee deferred its previous conclusion pending receipt of the information requested on supervision labour inspection and monitoring activities (Conclusions 2019). The Committee asked in particular for information on the activities and findings of the authorities (eg labour inspectorates, child protection agencies) for monitoring the working time for young workers under the age of 18 who are no longer subject to compulsory schooling. It also asked about the number of referrals to the criminal investigation bodies or number of sanctions applied for non-observance of the legal requirements regarding the duration of working time for young workers.

The report provided that the employer's compliance with the provisions on working and rest time is verified and subject to routine control. The non-compliances are subject to the penalties laid down in the Labour Code and measures are taken to remedy them. As regards the penalties imposed for the non-compliance with the working time, the report provides that the Labour Inspectorate does not segregate the collected statistical data by age groups. The report provides results of the control activities for the reference period, indicating the number of notifications sent to the criminal investigation authorities for the employment of minors not complying with the legal age conditions.

Conclusion

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

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

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

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

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

Fair remuneration for young workers and apprentices

The Committee previously concluded (Conclusions 2011) that the situation in Romania was not in conformity with Article 7§5 of the Charter on the ground that the right of young workers and apprentices to a fair wage and other appropriate allowances was not guaranteed in practice. With regard to the minimum wage of adult workers, the Committee notes that it considered in its conclusion under Article 4§1 of the Charter (Conclusions 2022) that the situation was not in conformity on the ground that the national minimum wage was not sufficient to ensure a decent standard of living. If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair. The Committee notes from the report that the situation has not changed much since the previous assessment, the minimum wage representing 40% of the average wage. Accordingly, the Committee reiterates its conclusion of non-conformity on this point.

As regards apprentices, the Committee notes that the situation has not changed. According to art. 9 par. (5) and 6 of Law no. 279/2005 regarding the apprenticeship at the workplace, republished, as amended and supplemented, the monthly base salary, established by the apprenticeship contract at the workplace is at least equal to the minimum gross national salary, in force for a program 8 hours per day and 40 hours per week on average respectively. The Committee thus reiterates its previous conclusion that if the reference wage is too low, even an apprentice's wage which respects these percentage differentials is not considered fair.

Fair remuneration in atypical jobs

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

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

The report does not provide any information in this regard.

Due to failure to provide the information, the Committee concludes that the situation in Romania is not in conformity with Article 7§5 of the Charter.

Enforcement

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

The report states that according to Article 260 para. 1 letter a) of the Labour Code, failure to comply with the provisions on guaranteeing in payment of the national gross minimum wage constitutes a contravention and is punishable by a fine.

According to the LI's existing database, for penalties imposed for the non-compliance with the provisions concerning the guarantee in payment of the national gross minimum wage, the requested statistical data are not disaggregated by age groups. The report provides results of the control activities for the reference period.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 7§5 of the Charter on the grounds that:

- young workers wages are not fair;
- apprentices' allowances are not appropriate.

Due to failure to provide the information listed below the Committee concludes that the situation in Romania is not in conformity with Article 7§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

List of questions:

- on measures taken to ensure that fair remuneration is guaranteed to young workers in atypical jobs or in the gig or platform economy and having zero hours contracts.

Article 7 - Right of children and young persons to protection

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

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

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

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

In its previous conclusion, the Committee found that the situation in Romania was not in conformity with Article 7§6 of the Charter on the ground that there were no clear indications on the intervention of the labour inspectorate on the time spent on vocational training during the normal working time and the remuneration for young workers (Conclusions 2019).

The Committee recalled in its previous conclusion that the situation in practice should be regularly monitored in particular the time spent for the professional training during the normal work time and the remuneration for young workers. The report replied that there are no statistical data on this issue. The Committee concluded that the lack of data was sufficient to conclude that there were flaws in the monitoring process.

The report confirms that the law stipulates that the time required for the theoretical training of the apprentice is included in the normal working hours. No information on interventions of the labour inspectorate is provided. The Committee thus reiterates its conclusion in this regard.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 7§6 of the Charter on the grounds that:

- time spent by young workers on vocational training during the normal working time is not effectively monitored;
- remuneration for young workers is not effectively monitored.

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 Romania.

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

In its previous conclusion, the Committee concluded that the situation in Romania was not in conformity with Article 7§7 of the Charter on the ground that the Labour Code did not provide sanctions for the employers who did not respect the regulations on paid annual holidays (Conclusions 2019).

The report notes that the situation giving rise to the conclusion of non-conformity has not changed. Therefore, the Committee reiterates its conclusion of non-conformity.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 7§7 of the Charter on the ground that the Labour Code does not provide sanctions for employers who do not respect the regulations on paid annual holidays.

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 Romania.

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

In its previous conclusion, the Committee concluded that the situation in Romania was not in conformity with Article 7§8 of the Charter on the ground that it had not been established that the Labour Inspectorate supervised the implementation of the prohibition of night work for young persons under 18 (Conclusions 2019).

The report provides consolidated data on the number of violations of the prohibition of night work, as regards minor, as well as adult, workers, during the reference period. Thus, the report notes that 96 fines were handed down in 2018, 105 in 2019, 102 in 2020, and 80 in 2021 respectively.

Conclusion

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

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

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

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

In its previous conclusion, the Committee concluded that the situation in Romania was in conformity with Article 7§9 of the Charter, 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 workers. While the report replies that data is not kept separately for young and adult workers respectively, it does not provide consolidated data either.

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 workers under 18 years of age, the Committee concludes that the situation in Romania 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 Romania 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 Romania 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 Romania 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 workers 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 Romania and in the comments by the Romanian Institute for Human Rights.

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 the targeted questions.

Protection against sexual exploitation

The Committee has previously asked whether the new Criminal Code criminalised all forms of child pornography and prostitution involving a child under the age of 18. It also asked whether the principle that child victims of sexual exploitation should not be prosecuted for any act connected with this exploitation was respected by Romania. It also asked for information on all measures taken to combat the sexual exploitation of children (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 states that child pornography is criminalised under Article 374 of the Criminal Code, and so is pimping under Article 213.

The report further states that Romanian legislation contains a non-punishment provision. The Committee notes from other sources (GRETA Evaluation Report, Third evaluation round, GRETA(2021)09, 3 June 2021) that the scope of this provision is rather narrow and that the Romanian authorities were urged to extend this non-punishment provision to cover all offences which victims of trafficking have been compelled to commit.

The report also mentions the activities taken to prevent and combat the sexual exploitation of children. They involved different training courses, various cooperation activities. In addition, a Joint National Action Plan for the Improvement of the Efficiency of the Fight against Trafficking in Human Beings and Minors has been developed.

In its comments, the Romanian Institute for Human Rights states that there is a lack of adequate protection against sexual exploitation or other forms of exploitation, especially in the use of technologies and social media channels. The child abuse situation is alarming, with 15,925 cases of abuse, neglect and child exploitation reported in 2021. On a positive note, a special telephone line for cases of abuse was established; however, it may be inaccessible to some children. Finally, the Romanian Institute for Human Rights notes that Romania has not yet adopted the new Strategy for the protection and promotion of human rights, the previous one covering the period 2014-2020.

Protection against the misuse of information technologies

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).

The report states that online and mobile phone violence against children is seen as a major challenge at the national level. There is a helpline which children and their parents can contact for help or advice when faced with a difficult situation online. There is also a hotline for anonymously informing the authorities about images of child sexual abuse found online. The Ora de Net Programme aims to combat illegal or harmful content and internet-related crime and to encourage the responsible use of Internet. In addition, in Romania, the European Strategy for a Better Internet for Children is being implemented.

Protection from other forms of exploitation

The Committee has previously asked for information on the implementation and impact in practice of national strategies on the Protection and Promotion of Children's Rights 2014-2020 and against Trafficking in Persons for 2018-2022. It also requested updated information on child trafficking and measures taken to address the problem. In addition, the Committee 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 (Conclusions 2019).

The report provides information on the implementation of the National Strategy on the Protection and Promotion of Children's Rights 2014-2020. It states that the Strategy has contributed to the implementation of measures to combat violence against children; awareness-raising campaigns on violence against children have been carried out; minimum quality standards for services for child victims of trafficking have been developed and adopted.

The report further states that the National Strategy against Trafficking in Persons for 2018-2022 is expected to have the following results: specialists trained in the investigation of trafficking in human beings and child trafficking; increased identification of victims of trafficking and intervention of specialists from organised crime units and other law enforcement professionals in cases of human trafficking; a better ability to work with victims of human trafficking by improving empathy and understanding of the human dimension; greater involvement of victims of trafficking in the criminal justice process; enhanced ability to prove human trafficking; a higher level of compensation for damage resulting from human trafficking; a higher level of cooperation and active use of instruments of international judicial cooperation.

The report states that in 2021, 282 child victims of trafficking were identified, most of them girls. Amendments have recently been made to the National Mechanism for the Identification and Referral of Victims of Trafficking in Persons, which include specific provisions for child victims. Various training courses and campaigns were also carried out during the reference period.

The report also states that the biggest decrease concerns children who work on the streets and return to their families in the evening: from 336 cases in 2014 to 221 cases in 2019. The number of children living on the street with their families has also fallen, from 194 cases in 2014 to 127 cases in 2019. The number of children living alone on the streets has risen from 165 cases in 2014 to 211 cases in 2019. Secondary prevention is provided by support groups for families at risk. There are monitoring mechanisms for children exploited and at risk of labour exploitation.

The Committee notes from other sources (Lanzarote Committee Implementation Report addressing the challenges raised by child self-generated sexual images and/or videos of 10 March 2022) that children living in rural and local communities in Romania are sometimes discriminated against when it comes to civil society assistance in cases of abuse.

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 states that the Covid-19 pandemic had a relatively low impact on the number of cases of child abuse, with 15,996 cases of abuse, neglect and exploitation in 2019, 14,170 cases in 2020 and 15,925 cases in 2021.

The report further states that the monitoring of child victims of violence who were provided with a rehabilitation plan was carried out in accordance with the legislation in force and monitoring was carried out remotely or through follow-up visits, with precautionary measures to prevent the transmission of Covid-19.

Conclusion

The Committee concludes that the situation in Romania is in conformity with Article 7§10 of the Charter.

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 Romania.

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

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

Covid-19

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

The report does not submit any specific information concerning the Covid-19 crisis and its impact on the conditions of entitlement or the amount of maternity benefits.

Conclusion

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

Article 8 - Right of employed women to protection of maternity

Paragraph 2 - Illegality of dismissal during maternity leave

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

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

In its previous conclusion (Conclusions 2019), the Committee concluded that the situation in Romania was in conformity with Article 8§2 of the Charter but requested information on the compensation awarded when reinstatement of the employee was not possible and on whether there was a ceiling on the amount of compensation that may be awarded.

Prohibition on dismissal

The Committee previously considered that the situation was in conformity on this point. There was therefore, no examination of the situation in 2023 and the Committee reiterates its previous conclusion of conformity.

Redress for unlawful dismissal

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was in conformity with the Charter in this respect and asked what compensation was awarded when reinstatement of the employee was not possible and whether there was a ceiling on the amount of compensation that could be awarded.

The report states that, in accordance with Article 80(1) to (3) of the Labour Code, if the dismissal was unfair or unlawful, the court will order its annulment and require the employer to pay compensation equal to the indexed, increased and updated wages and other entitlements that the employee would have received. At the employee's request, the court will order reinstatement. If the employee does not request reinstatement, the individual employment contract is terminated ipso jure on the date of the final and irrevocable judgment. The employer must then pay the employee compensation equal to the actual loss suffered by the employee (Article 34.2 of Law No. 202/2002 on equal opportunities and equal treatment between women and men). There is no information as to whether there are any ceilings on the amount of compensation that may be awarded.

Due to the failure to provide the information requested , the Committee concludes that the situation in Romania is not conformity with Article 8§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

Covid-19

The Committee asked whether the Covid 19 crisis had had an impact on the possibility of dismissing employees who were pregnant or 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 does not provide any information on this subject.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Romania is not in conformity with Article 8§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

Information missing:

- Whether there are ceilings on the amount of compensation that can be awarded in cases of unlawful dismissal on grounds of maternity.

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 Romania.

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 Romania 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 Romania 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 Romania.

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

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

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

The report states that according to Article 19 of Government Emergency Ordinance (GEO) no. 96/2003 pregnant employees, employees who have recently given birth or are breastfeeding shall not be obliged to perform night work. If the health of the above mentioned categories of employees is affected by the night work, the employer shall be obliged to transfer the employee to a daytime job at the employee's written request, while maintaining the employee's monthly gross basic wage.

The report states that any change in the working conditions or the assignment to another job is temporary and the employee has the right to return to her previous job.

The Committee recalls from previous conclusions (Conclusions 2015) that if, the employee cannot be transferred to day time work, she is entitled to maternity leave and maternity risk benefit. However the Committee recalls from previous conclusions (Conclusions 2015) that maternity risk benefit represented 75% of her average salary over the last ten months. The Committee further recalls that it has stated that the Charter requires that women who cannot be transferred to another post and are granted leave should be entitled to 100% of their previous pay (Statement of Interpretation 2019). As this is not the case in Romania the Committee concludes that the situation is not in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 8§4 of the Charter on the ground that pregnant women, women who have recently given birth or are nursing, who cannot perform night work and cannot be offered suitable alternative employment and are obliged to take leave are not entitled to 100% of their previous salary.

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 Romania.

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

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

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

The report states that there have been no changes to the situation previously found to be in conformity with the Charter. The Committee recalls from previous conclusions that in accordance with Government Emergency Ordinance No. 96/2003 (as amended), employers are required to carry out an annual assessment of the risks female employees’ face in their workplace in terms of health and safety and inform them of the results. If the results of the assessment indicate a risk to the safety or health of employees who are pregnant, have recently given birth or are breastfeeding, the employer must take the necessary measures so that, through a temporary change in the working conditions and/or working hours of the employee concerned, her exposure to the risks highlighted is avoided. The employee concerned maintains her original salary.

If the employee cannot be transferred, she is entitled to maternity leave and risk maternity benefit. The Committee previously noted that the risk maternity benefit represented 75% of her average salary over the last ten months. The Committee recalls that it has stated that the Charter requires that women who cannot be transferred to another post and are granted leave should be entitled to 100% of her previous pay. As this is not the case in Romania the Committee concludes that the situation is not in conformity with the Charter on this point.

Finally the Committee notes that women retain the right to return to their previous employment at the end of the protected period.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 8§5 of the Charter on the ground that pregnant women, women who have recently given birth or are nursing, whose ordinary employment has been deemed unsuitable due to their condition and who cannot be offered suitable alternative employment and are obliged to take leave are not entitled to 100% of their previous salary.

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 Romania.

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

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

- the measures taken did not ensure an adequate protection of women against domestic violence;
- it had not been established that affordable and good quality childcare was ensured for families;
- the notice period before eviction was too short;
- families could be evicted during winter;
- the protection of Roma families with respect to housing, including in terms of eviction conditions, was inadequate.

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

Domestic violence against women

The Committee notes firstly that Romania has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which entered into force in Romania in September 2016.

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that the measures taken did not ensure an adequate protection of women against domestic violence. It asked for comprehensive and updated information on relevant statistical data and examples of case law/related convictions applied, data on the use of protection orders, the availability of legal and psychological counselling, data on shelters and crisis centres for victims; the implementation of legislation/measures in the field and their impact on preventing and reducing domestic violence.

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

The report indicates that in order to fulfil Romania's commitments to harmonise the domestic legal framework with the provisions of the Istanbul Convention, the National Agency for Equal Opportunities between Women and Men benefited from the support of the Inter-Ministerial Committee for Preventing and Combating Domestic Violence created in October 2016, in order to contribute to the approval/adoption of a complex set of legislative texts, comprising primary, secondary and tertiary level regulations. The draft legislation was presented and discussed at the Inter-Ministerial Committee's working sessions. The Committee notes that the Inter-Ministerial Committee has a consultative role, which consists of ensuring co-operation between the relevant institutions and organisations, supporting the implementation and monitoring of the Istanbul Convention and supporting proposals to improve the legal framework.

The Committee notes from the report that the prosecution of the persons accused of domestic violence is carried out in accordance with the provisions of the Criminal Procedure Code, and that there are no special rules on the conduct of criminal investigations in these situations. The Committee takes note of the detailed information on the criminal proceedings relating to domestic offences.

The report states that Law No. 211/2004 on measures to ensure information, support and protection for victims of crime, as amended, provides for a number of measures aimed at informing victims of crime of their rights (from the first contact with authorities), as well as the procedures for accessing the tools enabling them to exercise these rights in practice. Victims must be informed, *inter alia*, of their right to psychological counselling, free legal assistance and financial compensation from the State as well as their right to be notified of the conviction, release or escape of the offender.

With regard to statistical data, the report indicates that all cases pending before the Prosecutor's Office of the High Court of Cassation and Justice and its subordinate prosecutors' offices are registered in the Electronic Court Register Informational System (ECRIS). Although statistical data on domestic violence offences against women are not collected at the level of the Public Ministry, each public prosecutor's office may generate reports through ECRIS for each offence falling under the category of domestic violence, and it is possible to obtain data on the number of such offences, the length of time taken to resolve cases, and the progress of criminal proceedings. The report adds that, at the level of the Public Ministry, data is collected on victims of domestic violence, including the total number of defendants prosecuted, the total number of victims of domestic violence and separately, the number of minor victims and the relationship between the victim and the perpetrator.

According to Law No. 183/2020 amending Law No. 217/2003 on Preventing and Combating Domestic Violence, the limits of punishment for violations of measures prescribed by protection orders and temporary protection orders were increased (imprisonment from six months to five years). In the case of these offenses, criminal proceedings can be terminated after the parties have reconciled. The Committee takes note of the data regarding provisional protection orders issued during the reference period. It also notes that protection orders can only be issued in cases of domestic violence and that the application for a protection order is free of charge.

The National Agency for Equal Opportunities between Women and Men launched a four-year project (VENUS) in 2019. It aims to establish a network of 42 shelters, spread across all the counties of Romania and the municipality of Bucharest. These shelters will provide victims of domestic violence with psychological and legal advice, social assistance and vocational counselling.

With regard to shelters and crisis centres for victims, the report indicates that the total number of social services and services in the field of preventing and combating domestic violence is 262, of which 168 at national level (152 for victims and 16 for perpetrators), 84 specialist support services at local level (42 support groups, 42 vocational counselling offices) and 10 integrated intervention centres for situations of sexual violence.

The Committee takes note of the numerous projects implemented during the reference period and their outputs in combating domestic violence against women.

In the light of the above, the Committee considers that the situation is now in conformity with Article 16 of the Charter on this issue.

Social and economic protection of families

Childcare facilities

In its previous conclusions (Conclusions 2019, 2015, 2011 and 2006), the Committee repeatedly requested information on how the Government ensured that affordable, good

quality childcare facilities were actually in place, particularly in terms of the number of children under the age of six in childcare, staff qualifications, the suitability of the premises and the size of the financial contribution requested from parents. Therefore, it concluded that the situation was not in conformity with Article 16 of the Charter on the ground that it had not been established that affordable and good quality childcare was ensured for families (Conclusions 2019, 2017 and 2015).

The report indicates that early childhood education (for children from birth to age 6) is part of pre-university education and includes, in accordance with Article 23(a) of the National Education Law No. 1/2011: (a) pre-primary education (for children aged 0-3) and (b) pre-school education (for children aged 3 to 6). According to the report, children aged 2 and over may be enrolled in pre-school education at the request of their parents, subject to the availability of places in pre-school institutions. Under Article 27(1) of the National Education Law, pre-school education is provided in crèches, nursery schools, and day-care centres. The report adds that crèches are part of the national pre-university education system and provide integrated education, care and supervision services for pre-school children aged 0 months to 3 years.

The Committee takes note of the number of children under 6 enrolled in pre-school education:

- for the 2018-2019 school year, there were 21,872 children under 3 and 525,411 children aged 3 to 6;
- for the 2019-2020 school year, 22,506 children under 3 and 526,216 children aged 3 to 6;
- for the 2020-2021 school year, 17,400 children under 3 and 505,179 children aged 3 to 6.

The report adds that over 96% of children enrolled in pre-primary and pre-school education attend state schools.

The Committee notes that in the 2019-2020 school year, there were 369 nurseries and 365 in 2020-2021. With regard to nursery schools, the report indicates that in 2019-2020, there were 1,175 nursery schools and 9,661 departments within school groups or other units providing education and training; 1,153 and 9,529 respectively in 2020-2021.

The report indicates that qualification requirements for pre-school and pre-primary teachers are regulated by the National Education Law, which defines who may work as a teacher. The Committee takes note of the detailed information presented in the report on this point.

As regards the cost of childcare for parents, the report indicates that the State provides basic funding for all pre-school children and all pupils in compulsory general public and private education. Funding is based on standard costs per pupil/student or per pre-school child according to the methodology developed by the Ministry of Education, and falls within these costs. Public education is free of charge. Fees may be charged for certain activities or study programmes under conditions established by law.

Regarding nursery schools, in accordance with Article 55(1) of Government Decision No. 566/2022, the parents or legal guardians of children of pre-school age are required to pay a monthly maintenance and feeding fee set by a decision of the Board of Directors of the educational institution, after consultation with the parents.

Due to the failure to provide requested information on the adequacy between childcare demand and offer, also in terms of geographical coverage and ratio of staff to children, the Committee concludes that the situation in Romania is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

Family benefits

Equal access to family benefits

In its previous conclusion (Conclusions 2019), the Committee noted that both the State Allowance for children and the Family Support Allowance were included in social assistance scheme and were provided to all eligible persons domiciled or residing in Romania.

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

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

Level of family benefits

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

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

The Committee notes from Eurostat data (published on 17 March 2023) that the monthly median equivalised income stood at €459 in 2021.

The report does not provide any information on this issue. However, the Committee already considered that the situation on this point was in conformity with Article 16 of the Charter and therefore refers to its previous conclusion (Conclusions 2019) for a detailed overview of the benefits available. It takes note the information from the MISSOC database on the amounts of child benefit and considers that they represent an adequate percentage of the median equivalised income. Therefore, the situation on this point remains in conformity with Article 16 of the Charter.

Measures in favour of vulnerable families

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

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

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

The report does not provide any information on this issue.

Housing for families

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

In its previous conclusion (Conclusions 2019), the Committee reserved its position on the existence of a sufficient supply of adequate housing for families and requested additional information, namely:

- figures on the availability of social housing units (number of applicants for social housing and number of those granted social housing) in cities with high poverty rates;
- whether other types of housing benefits than the heating allowances (energy vouchers) granted during the cold months to low-income families were made available to vulnerable or low-income families who do not have access to social housing;
- up-to-date figures on the adequacy of housing (water, heating, sanitary facilities, electricity, living size/overcrowding).

According to the report, families or persons whose average net monthly income per person over the last 12 months is lower than the average net monthly income in the economic sector as a whole, as communicated by the National Institute of Statistics in the last Statistical Bulletin prior to the month in which the application is considered, and prior to the month in which the housing is allocated, have access to rented social housing. Persons or families are not eligible for social housing if: (1) they own a dwelling; (2) they have disposed of a dwelling after 1 January 1990; (3) they have received state support in the form of loans and the construction of a dwelling; (4) they are tenants of other dwelling from the state housing fund.

The report does not provide any information on the availability of social housing units in cities with high poverty rates but it does indicate that between 2007 and 2022, 90 social housing blocks were built, for a total of 3,911 social housing units across the country.

As regards housing benefits, the report states that under Law No. 416/2001 on the guaranteed minimum income, the social aid programme is granted to all families and single persons with low or no income who are in difficulty. This social aid is calculated as the difference between the net monthly income of the family or single person and the monthly level of the guaranteed minimum income provided for by law. Entitlement to social welfare is determined by taking into account the family's income and movable and immovable property. The Committee takes note of the current monthly level of the guaranteed minimum income (€30 for a single person, €54 for 2 persons., etc).

Due to the failure to provide complete information on a sufficient supply of adequate housing for families (figures on the availability of social housing units in cities with high poverty rates, other types of housing benefits and up-to-date figures on the adequacy of housing), the Committee concludes that the situation in Romania is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

In its previous conclusions (Conclusions 2017, 2019), the Committee requested information on the following aspects of eviction procedures:

- whether occupiers may be evicted without a court order;
- whether the law prohibits the enforcement of evictions at night;
- whether compensation is provided in case of illegal eviction;
- whether evictions are governed by rules sufficiently protective of the persons' rights and accompanied by proposals for rehousing; and
- comprehensive information on the common procedure of eviction,
- whether judicial proceedings provide for a proportionality assessment of the effects of eviction in relation to the particular circumstances of the persons or families concerned, and if so, provide examples of any existing case law in this respect.

In response, the report states that Law No. 134/2010, as amended, establishes a new special procedure – the eviction from a property illegally used or occupied. This procedure may concern (a) cases where the person to be evicted has lawfully occupied the property by virtue of a title conferring a right to use the property (but whose right has ceased), or (b) a third party

occupying the property without any right. The report adds that the special eviction procedure is jurisdictional and, in the case of tenants, is enforced only by court order (with prior notice).

The report states that, if a tenant or occupier refuses to vacate the property, or if the tenant has waived the right to receive notice and has lost the right to use the property for any reason, the landlord or owner shall apply to the court for an order, enforceable by law, for the immediate eviction of the tenant or occupier from the property for lack of title.

Due to the failure to provide complete information on eviction procedures (the legal prohibition of evictions at night, compensation in case of illegal eviction, proposals for alternative accommodation, a proportionality assessment of the effects of the eviction on the particular circumstances of the persons or families concerned in judicial proceedings), the Committee concludes that the situation in Romania is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

With regard to the legal protection of persons threatened with eviction, the Committee previously considered (Conclusions 2017, 2019) that the situation was not in conformity with Article 16 of the Charter on the grounds that the notice period before eviction was too short, and that occupiers could be evicted during the winter.

The Committee notes from the report that the provisions concerning the notice periods applicable under the special eviction procedure (Law No. 134/2010 on the new Code of Civil Procedure, as subsequently amended, according to the report) have not changed. In particular, it observes that, according to the report, notification to the former tenant to vacate and surrender the property is given within a period of 30 days from the date of notification, and in the case of a third party occupying the property without any rights, the third party is obliged to vacate the property within 5 days from the date of service of the eviction notice. The Committee therefore reiterates its previous conclusion of non-conformity on this point.

Regarding winter evictions, the report adds that the amended law establishes that eviction from residential buildings is forbidden during the period between 1 December and 1 March of the following year. However, this measure does not apply if the creditor proves that he/she and his/her family do not have suitable accommodation at their disposal, or if the debtor and his/her family have other suitable accommodation to which they could move immediately, in the case of the eviction of a person who occupies a dwelling without any right of ownership, or of those who have been evicted because they jeopardise cohabitation or seriously disturb public order. In this connection, the Committee recalls that in order to comply with the Charter, the legal protection of persons threatened with eviction must include a prohibition on evictions at night or in winter (European Roma and Travellers Forum (ERTF) v. the Czech Republic, Complaint No. 104/2014, decision on the merits of 17 May 2016, §81). In view of the above, the Committee understands that eviction in winter is possible in some cases. It therefore reiterates its previous conclusion of non-conformity on this point.

In its previous conclusions (Conclusions 2019, 2015, 2011), the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that the protection of Roma families with respect to housing, including the conditions of eviction, was inadequate. The Committee asked to be informed:

- whether any procedural safeguards apply to demolitions of informal settlements of Roma families;
- any measure envisaged or adopted to improve the housing situation of Roma families, including the achievements of the Strategy for the Inclusion of Romanian Citizens belonging to the Roma minority for the period 2015-2020 in the field of housing.

In response, the report mentions various measures planned or implemented to improve housing for Roma families. The Committee takes note of the interventions aimed at reducing the number of marginalised communities as well as the number of persons at risk of poverty

and social exclusion, including the Roma population, undertaken in the framework of the Operational Programme “Human Capital” 2014-2020.

The report also sets out the actions envisaged under the Inclusion and Social Dignity Operational Programme 2021-2027 to increase access to adequate housing for all categories of persons, in particular young persons and other vulnerable groups, as well as persons living in informal settlements (construction, renting/purchasing, rehabilitation/renovation of affordable social housing) and to support the local authorities in regulating the situation of informal settlements.

Due to the failure to provide requested information on the procedural safeguards applied in the demolition of informal settlements of Roma families, the Committee concludes that the situation in Romania is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Romania of their reporting obligations under Article C of the Charter.

In its previous conclusion, referring to its Statement of Interpretation on the rights of refugees under the Charter (Conclusions 2015), the Committee asked for information on the housing situation of refugee families.

The report indicates that Article 17(1)(k) of Law No. 122/2006 on Asylum in Romania regulates the right of an applicant for international protection to receive, upon request, free accommodation in one of the six centres of the Ministry of Internal Affairs for a period of 12 months, provided that they are enrolled in the integration programme.

Conclusion

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

- the notice period before eviction is too short;
- families can be evicted during the winter.

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

Information missing:

- the adequacy between demand for and offer of childcare services, including in terms of geographical coverage and staff/child ratios;
- the length of residence requirement imposed on nationals of other States Parties lawfully resident in the country for eligibility to family benefits;
- measures taken to ensure that vulnerable families could meet their energy needs;
- figures on the availability of social housing units (number of applicants for social housing and number of beneficiaries of social housing) in cities with high poverty rates;
- other types of housing benefits (than heating allowances during the cold months for low-income families) available to vulnerable or low-income families with no access to social housing;
- up-to-date figures on the adequacy of housing (water, heating, sanitary facilities, electricity, living size of dwelling/overcrowding);
- the legal prohibition of evictions at night;
- compensation in case of illegal eviction;
- proposals for alternative accommodation in the event of an eviction order ;
- a proportionality assessment of the effects of eviction on the particular circumstances of the persons or families concerned in the context of judicial proceedings, and examples of any existing case law in this respect;
- any procedural safeguards that apply to the demolition of informal settlements of Roma 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 Romania and in the comments by the Romanian Institute for Human Rights.

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 Law No. 21/1991 on Romanian Citizenship transposes into national law the standards on preventing and combatting statelessness set out in the relevant international conventions to which Romania is a party. Although the Law on Romanian Citizenship is based on the principle of *jus sanguinis*, it also contains elements of *jus soli*. If it cannot be established that a child’s parents are Romanian citizens, the child will be presumed Romanian citizen. The child who has one Romanian parent is a Romanian citizen. Moreover, Romanian citizenship cannot be withdrawn from the person who acquired it by birth, which prevents potential statelessness. Another measure to prevent statelessness is to allow the renunciation of Romanian citizenship only after another citizenship has been acquired. There is also a procedure for former Romanian citizens and their descendants to regain or be granted Romanian citizenship.

The report further states that monitoring is carried out with the aim of legalising the civil status and identity documents of Romanian citizens from disadvantaged backgrounds, including Roma. In accordance with Romanian legislation, any Romanian citizen can have a civil status certificate and an identity card. The judicial procedure for late registration of a birth was also eliminated. In addition, the mayor of the territorial administrative district of the person’s residence or the competent institutions may request the registration of the birth of children born abroad for whom a special protection measure has been ordered and of those born abroad and living with their parents or guardians.

Child poverty

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

The report states that in Romania's social health insurance system, insured people benefit from a package of basic services in the event of illness or accident, in a fair and non-discriminatory manner.

The report further states that children in Romania have the opportunity to participate in different consultative structures at European and national level. One example is the Bucharest EU Children's Declaration of 2019 which aims to promote the need to prioritise children's right to participate in political and democratic life.

In its comments, the Romanian Institute for Human Rights states that the lack of information campaigns on children's rights has led to social exclusion. Preventing child poverty requires a complex combination of measures, both monetary and non-monetary. The Government did not provide a response.

The Committee notes from EUROSTAT that 41.5% of children in Romania in 2021 were at risk of poverty or social exclusion, a decrease in comparison with 2018, when the percentage was 44.2%. The Committee notes that the 2021 rate is extremely high compared to the EU average of 24.4%. The Committee considers that the situation in Romania is not in conformity with Article 17§1 of the Charter on the ground that the rate of children at risk of poverty is too high.

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

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

Right to assistance

The Committee has previously requested further information on accommodation facilities for migrant children, whether accompanied or unaccompanied, including measures taken to ensure that children were accommodated in appropriate settings. It also requested further information on the assistance given to unaccompanied children, in particular to protect them from exploitation and abuse. It also requested information as to whether children in an irregular

migration situation, accompanied or not, could be detained and, if so, under what circumstances. Finally, the Committee asked whether Romania used bone testing to assess age and, if so, in what situations, and what potential consequences such testing could have (Conclusions 2019).

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

The report states that unaccompanied minors are accommodated in facilities under the same conditions as Romanian minors. Accompanied minors are exceptionally accommodated in the Accommodation Centres for Aliens in Public Custody, only with their families.

The report further states that the risk of child abuse is assessed by the relevant authorities. In case of residential services belonging to the special protection system, the quality standards include provisions aimed at preventing and combatting violence against the child, including ways of reporting such cases.

The report states that unaccompanied minors are not detained. The freedom of movement of accompanied minors can only be restricted for the purpose of their repatriation from Romania.

The report further states that Romania does not use bone testing. Medico-legal assessment of the age of a foreigner consists of a physical examination and anthropometric measurements, a dental examination and an X-ray examination of the left hand or clavicle. The Committee notes that, from the description provided in the report, it appears that Romania uses bone testing to determine the age of children. 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 Romania 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 states that emergencies are initially assessed by mobile teams, social workers are contacted, and on-site checks also require the presence of a police officer. All children in the special protection system benefit from an individualised protection plan, which also includes the necessary rehabilitation services for child victims.

The Committee notes from other sources (European Union Agency for Fundamental Rights, Migration: Key Fundamental Rights Concerns, 1 January 2021-30 June 2021, Asylum Information Database) that pushbacks are carried out at the Romanian border. The Committee concludes that the situation in Romania is not in conformity with Article 17§1 of the Charter on the ground that immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance.

Rights of children in public care

In its previous conclusion, the Committee requested a description of the different types of care. It asked what measures had been adopted to ensure that children were never taken into care on the basis of their family's financial or material situation. It also asked what measures had been taken to prevent and address cases of abuse and neglect suffered by children in care, whether in institutions and in other contexts, as well as measures taken to prevent the separation of children from their families and to continue to increase community/family-based care. It also sought information on mechanisms in place to monitor the care provided to children in institutions and in care generally (Conclusions 2019).

The report provides a description of different types of care: day services, family-type services and residential-type services (family-type homes, apartments, emergency reception centres and maternity centres). The report also describes the circumstances in which children can be

taken into care, and, in accordance with Romanian legislation, their family's financial situation is not one of them.

The report further states that Romanian legislation provides for measures to prevent and identify cases of violence against children. Violence is notified to the relevant authorities and an initial assessment is mandatory. A multidisciplinary team then assesses the child in their socio-family context and proposes a rehabilitation and social reintegration plan for the child, the family and the aggressor. The services are provided throughout the implementation of the plan, and, if necessary, during the court proceedings; the child is then monitored for another six months.

The report states that the mission of municipalities, cities and communes is to prevent situations that could lead to the separation of children from their families. In 2020, 990 day-care services were in operation, and 35,689 children benefited from these services. The report mentions the draft law for the implementation of measures to prevent the separation of the children from their families and to support the families in raising and caring for children at risk of separation.

The report states that if the circumstances have changed, the authorities are obliged to immediately refer the matter to the child protection commission or the court with a view to amending or terminating the measure imposed.

In its comments, the Romanian Institute for Human Rights states that the opinion of children living in institutional care is not always taken into consideration in a number of aspects, such as food, clothing, development, preparing for leaving care, activities in their free time. The Government did not provide a response.

Children in conflict with the law

The Committee has previously asked to explain the difference between detention in an educational centre and detention in a detention centre. Finally, it asked whether children could be placed in solitary confinement; if so, for how long and under what circumstances (Conclusions 2019).

The report lists the differences between detention in an educational centre and detention in a detention centre. Detention in educational centre can last from one to three years, and if a minor commits a new offence, this measure may be replaced with detention in a detention centre. The enforcement regime is the same for everyone and an educational council individualises the measures for each minor. In a detention centre, detention can last from two to five years, unless the sentence is more serious. If a minor commits a new offence, the court can extend the measure. There are closed and open regimes and a committee is set up to individualise the measure.

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

Conclusion

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

- the rate of children at risk of poverty is too high;
- bone testing is used to assess the age of children in irregular migration situation;
- immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance.

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 Romania and in the comments by the Romanian Institute for Human Rights.

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 Romania was not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in primary education was too low (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 Romania was not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in primary education was too low (84.22% in 2017). The Committee also asked for information on enrolment rates, absenteeism and drop out rates as well as information on measures taken to address the issues related to these rates (Conclusions 2019).

The report states that the enrolment rates in 2020/2021 were as follows: 84.4% in primary education and 77.8% in secondary education. Drop out rates were as follows: 1.3% in primary education, 1% in secondary education and 1.7% in high school and vocational education.

The report further mentions several measures taken to address the problems related to the enrolment, absenteeism and drop out rates, such as the pilot programme to provide food for pre-school children, the programme to provide financial aid to pupils, scholarships, social welfare grants and others. In addition, the School for All programme promotes integrated measures to prevent and reduce early school leaving.

The Committee notes from other sources (UNESCO database) that the enrolment rates in 2021 were as follows: 90.42% in primary education and 76.98% in upper secondary education. There is no data for lower secondary education from 2020, but in 2019 the enrolment rate was 88.60%. The Committee considers that the aim should be to achieve 100% enrolment rate in both primary and secondary education. The Committee finds that net enrolment rate in secondary education remains low. The Committee therefore considers that the situation in Romania is not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in secondary education is too low.

Costs associated with education

The Committee has previously asked for updated information on measures in place to mitigate the costs of education such as transport, textbooks, uniforms and stationery (Conclusions 2019).

The report states that pupils can receive support for transport, textbooks, school supplies. There are also several programmes aimed at mitigating the costs of education, such as scholarships, grants and others.

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 asked that the next report provide updated information on the situation of Roma children: enrolment, drop out and completion rates as well as measures taken to encourage school attendance and support Roma children in education. It also asked for information on the number of Roma children with special needs attending school, on whether all children in an irregular migration situation could access education and what measures had been taken to ensure the right to education for street children (in street situations) and children in rural areas (Conclusions 2019).

The report states that children in an irregular migration situation have access to the education system.

Due to the failure to provide the requested information on the situation of Roma children: the enrolment, drop out and completion rates, the measures taken to encourage school attendance and support Roma children in education and the number of Roma children with special needs attending school, the Committee concludes that the situation in Romania 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 Romania of its reporting obligations under Article C of the Charter.

The voice of children in education

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

The report states that the National Pupils' Council is the national body representing students in public and private pre-university education. Pupils have the right to be consulted and to express their choice of subjects in the curriculum decided by the school, to give their opinion to the teachers anonymously. They may also participate in various bodies which have an impact on the education system, and in administrative bodies within teaching units.

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 methodological rules on bullying have been approved. A National Joint Action Plan to increase the safety of pupils and teaching staff in schools has been drawn up.

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 students were provided with mobile IT equipment so that they could learn online. Protective equipment against health risks was also provided.

In its comments, the Romanian Institute for Human Rights states that, according to the study carried out by Save the Children, approximately 27% of the respondents did not follow classes during the pandemic. Some respondents found homework complicated and indicated that they needed more support after coming back to school. Less than 20% of the respondents had access to a laptop, computer or tablet. The poor digital skills of teachers, parents and children aggravated inequalities in children's access to education. Access to online education for children with special educational needs was extremely low.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 17§2 of the Charter on the ground that the net enrolment rate in secondary education is too low.

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

List of questions/Information missing: on the situation of Roma children: enrolment, drop out and completion rates, measures taken to encourage school attendance and support Roma children in education and the number of Roma children in special needs schools.

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 Romania.

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 found the situation in Romania to be in conformity with Article 19§7 of the Charter without raising any specific question.

Since no targeted questions were asked under Article 19§7, and the previous conclusion found the situation in Romania to be in conformity with the Charter without requesting any information, there was no examination of the situation in 2023.

Conclusion

The Committee concludes that the situation in Romania is in conformity with Article 19§7 of the Charter.

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 Romania.

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 Romania was not in conformity with Article 19§8 of the Charter on the ground that a migrant worker may be considered as a threat to public order and therefore expelled where s/he has been convicted for a minor crime. The assessment of the Committee in the present conclusion will therefore concern the information provided in response to its previous conclusion of non-conformity.

In the previous conclusion (Conclusions 2019), the Committee took note that pursuant to Law No. 286/2009 (Criminal Code), the deportation as an ancillary penalty may be applied as long as the main penalty determined by the court is a custodial sentence or a fine and the court deems it necessary, due to the nature of the offence, the circumstances of the case and the personal circumstances of the offender. Furthermore, the Committee took note that under this Law, deportation becomes mandatory for some type of offences. It shall not be imposed when the sentence is to be suspended under probation or when there is probable cause to believe the person’s life might be at risk or that the person might be subjected to torture or other inhuman or degrading treatment in the country he or she is to be expelled.

The Committee therefore considered that the above-mentioned provisions of the Criminal Code were wider than what is permissible under Article 19§8 of the Charter and considered that the conviction of an individual for a criminal offence carrying a lesser sentence or a fine should not lead to an individual being considered as threat to public order or national security. The Committee considered that these provisions may lead to migrant workers being arbitrarily expelled and therefore cannot be considered as being in conformity with this provision of the Charter.

The report limits its submission to referring to the information provided in the previous national report concerning Article 19.

The Committee understands that the relevant legislation, which lead the Committee to find a violation of Article 19§8 in the previous conclusion (Conclusions 2019) has not been amended during the reference period. The Committee in particular notes from the previous report that the expulsion measure can be applied even in cases where the migrant worker is convicted to a fine by a court decision.

Recalling that Article 19§8 of the Charter obliges States Parties to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality, the Committee reiterates that the above-mentioned provisions of the Criminal Code are wider than what is permissible under Article 19§8 and that they may lead to migrant workers being arbitrarily expelled. Therefore, the situation cannot be considered as being in conformity with Article 19§8 of the Charter.

Conclusion

The Committee reiterates its previous conclusion that the situation in Romania is not in conformity with Article 19§8 of the Charter on the ground that that a migrant worker may be considered as a threat to public order and therefore expelled where they have been convicted for a minor crime.

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 Romania.

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

As the previous conclusion (Conclusions 2019) found the situation in Romania to be in conformity with Article 27§2 the Charter, there was no examination of the situation in 2023 on this point. Therefore, the Committee reiterates its previous conclusion.

Covid-19

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

According to the report, during the period that the state of emergency was declared (until 31 December 2020), the rights to parental leave and child-raising allowance were automatically extended in case of beneficiaries who were receiving the child-raising allowance at that time, even if the child reached the age after which it was to be discontinued. The measures aimed at ensuring the supervision of the child during the closure of educational units and the adequate income for parents who could not return to work.

Conclusion

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