



March 2024

# **European Social Charter (REVISED)**

European Committee of Social Rights

Conclusions 2023

## **TÜRKIYE**

*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 Türkiye, which ratified the Revised European Social Charter on 27 June 2007. The deadline for submitting the 15th report was 31 December 2022 Türkiye submitted it on 30 March 2023.

The Committee recalls that Türkiye was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2019).

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

The comments of the Human Rights Association, the Partnership Network for Prevention of Violence against Children and the Association for Monitoring Equal Rights (AMER) on the 15th report were registered on 23, 29 and 30 June 2023 respectively.

Türkiye has accepted all provisions from the above-mentioned group.

The conclusions relating to Türkiye concern 36 situations and are as follows:

- 9 conclusions of conformity: Articles 8§1, 8§3, 19§2, 19§3, 19§5, 19§7, 19§9, 19§11, 27§1.
- 27 conclusions of non-conformity: 7§§1-10, 8§2, 8§4, 8§5, 16, 17§§1-2, 19§1, 19§4, 19§6, 19§8, 19§10, 19§12., 27§§2-3, 31§§1-3.

Conclusions and reports are available at [www.coe.int/socialcharter](http://www.coe.int/socialcharter).

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

### *Paragraph 1 - Prohibition of employment under the age of 15*

The Committee takes note of the information contained in the report submitted by Türkiye, as well as comments from the Partnership Network for Prevention of Violence against Children and the Human Rights Association (*İnsan Hakları Derneği -İHD*).

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 found that the situation in Türkiye was not in conformity with Article 7§1 of the Charter on the following grounds:

- it has not been established that work done at home by children under the age of 15 is monitored effectively;
- the prohibition of employment of children under the age of 15 is not guaranteed in practice.

As regards the first ground of non-conformity, the Committee has previously recalled that States are required to monitor the conditions of home-based work and has asked that the next report indicate whether the State authorities monitor work done at home by children under the age of 15 and what their findings were in this respect.

The Committee notes from the report in this respect that labour inspectors carry out inspection activities within the framework of the provisions of the legislation. In the event of a violation of the legislation being detected, an administrative fine is imposed. The report indicates that private properties are not subject to labour inspection as they fall within the scope of “domestic services” under Article 4 of Labour Law No. 4857 and Article 2 of the Occupational Health and Safety Law No. 6331.

The Committee further notes that the report provides the results of Child Labour Survey of 2019, according to which, among children aged 5 to 17 engaged in economic activities, 79.5% were aged 15-17 and 15.9% were aged 12-14. Of all economically active children 30.8% were involved in agricultural work and 45.5% in services. The report also provides information about children contributing to household tasks, such as helping with shopping, cleaning, and caring for younger children.

The Committee considers that, despite the information provided by the Child Labour Survey, it is not clear whether children working in small family enterprises are only doing light work and that their working time during the school term or during school holidays is not excessive. The situation is therefore not in conformity with the Charter on the ground that the employment of children below the age of 15 in family-type businesses is not monitored effectively.

As regards the second ground of non-conformity, the Committee has previously concluded that the situation in Türkiye was not in conformity with Article 7§1 of the Charter on the ground that the prohibition of employment under the age of 15 was not guaranteed in practice.

The Committee recalls that the prohibition of the employment of children under the age of 15 applies to all economic sectors, including agriculture, and all places of work, including work within family enterprises and in private households (Conclusions I (1969), Statement of Interpretation of Article 7§1). It further recalls that the prohibition also extends to all forms of economic activity, irrespective of the status of the worker (employee, self-employed, unpaid family helper or other).

The Committee notes from the report that Child Labour Surveys were conducted in 1994, 1999, 2006, 2012 and 2019 by the Turkish Statistical Institute. While the rate of children aged 6-17 engaged in economic activity was 15.2% in 1994, this rate decreased to 10.3% in 1999 and 5.9% in 2006 and remained the same in 2012. According to the results of the 2019 Child Labour Force Survey, the rate of children engaged in economic activity in the 5-17 age group was 4.4% (720 000 persons).

According to the report, in all inspections carried out by the Labour Inspectorate, child labour is considered to be a priority risk group, and complaints and notices regarding child labour are evaluated and included in the scope of the inspections as a priority. In addition, the Provincial Directorates of National Education are notified to direct these children to education.

As a result of the inspections carried out, administrative fines are imposed on workplaces that violate the provisions of Article 71 of the Labour Law No. 4857 entitled “Working age and restrictions on the employment of children” and the Regulation on the Procedures and Principles of Employment of Child and Young Workers. During the inspections carried out by labour inspectors between 01 January 2018 and 31 December 2021, administrative fines were imposed on 265 workplaces that had breached Article 71 of Labour Law No. 4857.

The Committee also notes from the Observation of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted in 2020 concerning the Minimum Age Convention (No. 138), that the Action Plan associated with the National Programme on the Elimination of Child Labour 2017-2023 contains measures aimed at implementing and updating legislation, strengthening existing institutional structures and creating new ones and widening the social protection and social security net. As part of the National Employment Strategy Action Plans (2014–2023), it is provided, inter alia, that (i) annual plans will be developed to combat child labour; (ii) activities will be organised to raise awareness of child labour at the national and local levels, including among families; and (iii) a monitoring system on child labour will be set up to ensure coordination.

The Committee notes from the comments submitted by the Partnership Network for Prevention of Violence against Children that the 2019 Child Labour Survey referred to in the national report, which is conducted in October, November, and December does not give an accurate picture of the reality as these are traditionally the months with the lowest child labour rates, since agricultural activities are largely completed in this period and schools are open, resulting in the least number of working children. Moreover, with the transition to the 4+4+4 education system, many children complete their primary education at the age of 13. It is anticipated that this situation leads to the entry of a significant number of children into the labour market who have completed their primary education but have not yet reached the age of 14.

There is no specific legal regulation for the agricultural sector. Legal regulations regarding workers in this sector are scattered across multiple laws, including the Labour Law, the Law of Obligations, the Occupational Health and Safety Law, and the General Sanitary Law.

The Committee also notes from the Human Rights Association (*İnsan Hakları Derneği -İHD*) that one of the most important causes of child labour is poverty. Children from poor families have to work to earn income and thus try to provide for the family. Another reason for child labour is domestic work. According to TurkStat’s Turkey Child Survey 2022 report released

on 22 March 2023, 52.5% of children in the 5-17 age group reported that they had to do at least one household chore.

The Committee notes that measures have been taken to improve the monitoring of child labour in all sectors, through national action plans and programmes, as well as child labour surveys. However, the Committee observes that the results of these measures are not known as they partly fall outside the reference period and also it has not been shown that children still in compulsory education are only involved in light work which is authorised by legislation in sufficiently precise terms. Therefore, the situation is not in conformity with Article 7§1 of the Charter on the ground that it is not guaranteed in practice that children under 15 years of age can only carry out light work.

#### *Conclusion*

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

- employment of children below the age of 15 in family-type enterprises is not effectively monitored.
- employment of children under 15 years of age only in light work is not guaranteed in practice.

## **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 Türkiye.

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 found that the situation was not in conformity with the Charter as the prohibition of employment under the age of 18 for dangerous or unhealthy activities was not effectively guaranteed. The Committee asked in particular that the report provide information on the monitoring activities and findings of the labour inspectors with specific regard to the violation of the rules regarding the prohibition of employment under the age of 18 for dangerous or unhealthy activities.

In its previous conclusion the Committee took note of the legislative framework governing the prohibition of employment under the age of 18 for dangerous or unhealthy activities.

The Committee notes that the report does not provide any new information concerning the monitoring activities of labour inspectors where employment of children in dangerous activities has been detected. It notes however, that according to the child labour survey, 12.0% of children worked in an extremely hot/cold environment, whereas 10.8% of them were exposed to chemicals and 10.1% worked in difficult work postures and 6.4% of working children faced the risk of accidents in their workplace.

The Committee notes that the situation which it has previously considered not to be in conformity with the Charter has not changed. It considers that since the results of the labour inspection activities to monitor prohibition of employment of children under 18 in dangerous activities are not known and the labour survey has revealed that children have been exposed to health risks, there is no evidence that prohibition of employment of persons under the age of 18 in dangerous activities is effectively guaranteed.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 7§2 of the Charter on the ground that the prohibition of employment of persons under the age of 18 for dangerous or unhealthy activities is not effectively guaranteed.

## **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 Türkiye.

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

In its previous conclusion (Conclusions 2019) the Committee found that the situation was not in conformity with Article 7§3 on the ground that the duration of light work permitted to children subject to compulsory education during school holidays was excessive.

The Committee notes that according to Article 71 of the Labour Law No. 4857 titled Working age and restrictions on the employment of children, the working time of children who have completed their basic education and who are no longer attending school shall not be more than seven hours daily and more than thirty-five hours weekly.

The working time of children attending school during the education period must be organised outside their training hours and shall not be more than two hours daily and ten hours weekly. The working time during the periods when schools are closed shall not exceed the hours foreseen in the first subsection above (i.e.seven hours a day and 35 hours a week).

The Committee thus notes that the working time of children still in compulsory education, during school holidays can be up to seven hours a day and 35 hours a week.

The Committee notes that the situation which it has previously considered not to be in conformity with the Charter has not changed. Therefore, the Committee reiterates its previous finding of non-conformity.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 7§3 of the Charter on the ground that the duration of light work permitted to children subject to compulsory education during school holidays is excessive and therefore, may deprive them of the full benefit of education.

## **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 Türkiye. It also notes comments submitted by the Human Rights Association (İnsan Hakları Derneği - İHD) and by the European Trade Union Confederation (ETUC)..

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

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

In its previous conclusion, the Committee considered that the situation in Türkiye was not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for young workers under the age of 16 years was excessive. The Committee noted that Article 71 of the Labour law was amended in 2015, providing that working hours for children who have completed their compulsory primary education and do not continue to receive formal education shall not be longer than 7 hours a day and 35 hours a week; these hours shall not be longer than 5 hours a day and thirty hours a week for those working in artistic, cultural and advertising activities. That period may be increased to 8 hours a day and 40 hours a week for children who have completed the age of 15 (Conclusions 2019). The Committee notes that the situation has not changed. It therefore reiterates its conclusion of non-conformity.

The Committee has also previously requested information on monitoring activities, including in particular the number of inspection conducted, the number of violations found and the sanctions imposed in practice with specific regard to children and young workers under the age of 18 who are not subject to compulsory schooling.

The report provides that the Directorate of Guidance and Inspection conducts inspections in accordance with Labour Law No. 4857 and the Regulation on the Procedures and Principles of Employment of Child and Young Workers. Employers not adhering to child labor laws are subject to inspection by the Directorate of Guidance and Inspection of the Ministry of Labor and Social Security (MoLSS) and the Social Security Institution. Reports and requests regarding child labor are primarily addressed through these inspections. According to Article 6/ğ of the Regulation on Labour Inspection, if violations regarding workers' age are found, inspectors have the authority to halt their work and involve the relevant authorities. Child labor is considered a top priority risk group in all inspections conducted by the MoLSS's Directorate of Guidance and Inspection. Complaints about child labor are also given high priority, and all inspections are conducted regardless of the child's nationality or status. The report provides statistics on the number of violations discerned and the sanctions imposed.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for workers under the age of 16 years is excessive.



## **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 Türkiye. It also notes comments submitted by the Human Rights Association (İnsan Hakları Derneği - İHD).

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 Türkiye was not in conformity with Article 7§5 of the Charter on the ground that it had not been established that the allowances paid to apprentices were appropriate (Conclusions 2019).

### ***Fair remuneration for young workers and apprentices***

The Committee recalls that the "fair" or "appropriate" character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged 18 or above) (Conclusions XI-1(1991), United Kingdom). Since Turkey has not accepted Article 4§1 of the Charter, the Committee makes its own assessment on the adequacy of young workers wage under Article 7§5 of the Charter. For this purpose, the ratio between net minimum wage and net average wage is taken into account.

In its previous conclusion (Conclusions 2019), the report did not contain any information on the minimum wage, neither gross nor net values, and neither on the net average wage and the Committee reserved its position on the fairness of remuneration of young workers.

The report provides that the net minimum wage increased in the course of the reference period, amounting in 2021 to 93 EUR. The Committee notes from the Turkish Statistical Institute that the net average wage amounted to 500 EUR in the reference period. The Committee notes that the minimum wage constitutes 18,6% and as such cannot ensure a decent standard of living within the meaning of Article 4§1 of the Charter. Accordingly, young worker's wage is likewise not considered fair.

In its previous conclusion (Conclusions 2019), given the lack of information on the amount of the allowance paid to apprentices at the end of the apprenticeship, the Committee concluded that it had not been established that the allowances paid to apprentices were appropriate.

The report states that the wage paid to the students and apprentices cannot be less than thirty percent of the minimum wage appropriate to the age of the apprentice, and for the 12th-grade students of the vocational education centre, it cannot be less than 50 percent of the minimum wage. The Committee also notes from the comments submitted by the Human Rights Association (İHD) that apprenticeship wages determined according to Article 25 of the Vocational Education Law No. 3308 are between 15% and 50% of the net minimum wage depending on the number of workers in the workplace and are quite low. In unregistered workplaces, apprentices are employed on a subsistence basis, i.e. by providing food and commuting fees. Many apprentices are also not insured.

The Committee recalls at under Article 7§5, the allowance paid to apprentices must be at least one third of an adult's starting wage or minimum wage at the beginning of their apprenticeship and reach at least two thirds by the end (Conclusions 2006, Portugal). The Committee accordingly considers that the situation is not in conformity with the Charter on this point.

### ***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 address these points.

Due to the failure to provide the information, the Committee concludes that the situation in Türkiye 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 does not provide the requested information.

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

### ***Conclusion***

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

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

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

List of questions:

- Information on measures taken to ensure that fair remuneration is guaranteed to young workers in the following context - in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers), in the gig or platform economy and on zero hours contracts.
- information on measures taken to ensure that the right of young persons to fair pay is effectively enforced.

## **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 Türkiye.

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 the previous conclusion, the Committee found the situation in Türkiye to be in conformity with the Charter, pending receipt of information requested.

In its previous conclusion (Conclusions 2019), the Committee requested information on the total number of apprentices, the number of apprentices who benefited of vocational training, or on the number of labour inspections conducted. It also asked about the situation in practice and on the monitoring activities of the Labour Inspectorate, including the number of inspections and the level of fines imposed for breach of the applicable rules. The report does not reply to the Committee’s request.

Due to the failure to provide the requested information, the Committee concludes that the situation in Türkiye is not in conformity with Article 7§6 of the Charter. Missing information:

- the total number of apprentices, the number of apprentices who benefited of vocational training;
- the situation in practice and on the monitoring activities of the Labour Inspectorate, including the number of inspections and the level of fines imposed for breach of the applicable rules.

### *Conclusion*

Due to the failure to provide the information listed below the Committee concludes that the situation in Türkiye is not in conformity with Article 7§6 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter:

List of questions:

- the total number of apprentices, the number of apprentices who benefited of vocational training;
- the situation in practice and on the monitoring activities of the Labour Inspectorate, including the number of inspections and the level of fines imposed for breach of the applicable rules.

## **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 Türkiye.

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 Türkiye was in conformity with Article 7§7 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the monitoring activities and findings of the Labour Inspectorate in relation to paid annual holiday for young workers under 18 years of age. The report does not provide the requested information.

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

List of questions/Information missing:

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

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

### *Paragraph 8 - Prohibition of night work*

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

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

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

The Committee asked whether there were any exceptions to the prohibition of night work for young workers under 18 years of age. The Committee also asked for information on the monitoring activities and findings of the State Labour Inspectorate in relation to the prohibition of night work for young workers under 18 years of age. The report does not provide the requested information.

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

The report also provides information about relevant national legislation that the Committee has previously reviewed (see Conclusions 2019).

### *Conclusion*

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

List of questions/Information missing:

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

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

### *Paragraph 9 - Regular medical examination*

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

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 Türkiye 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 under 18 years of age. The report does not provide the information requested.

Due to the failure to provide requested information on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young workers under 18 years of age, the Committee concludes that the situation in Türkiye 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 Türkiye 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 Türkiye 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 Türkiye 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 Türkiye and in the comments of the Human Rights Association and the Partnership Network for Prevention of Violence against Children.

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”).

In its previous conclusion the Committee concluded that the situation in Türkiye was not in conformity with Article 7§10 of the Charter on the grounds that it had not been established that child victims of sexual exploitation could not be prosecuted and that not all acts of sexual exploitation of children under the age of 18 were criminalised (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and the targeted questions.

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

The Committee has previously concluded that the situation in Türkiye was not in conformity with Article 7§10 of the Charter on the grounds that it had not been established that child victims of sexual exploitation could not be prosecuted and that not all acts of sexual exploitation of children under the age of 18 were criminalised. The Committee also asked whether the criminalisation of using or facilitating child prostitution covered all children under the age of 18. It also asked for information on measures taken to address 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 sexual abuse of a child is a crime under Article 103 of the Penal Code.

The report provides no information on the conclusion of non-conformity and the questions asked in previous conclusions. The Committee notes from other sources (GRETA Evaluation Report, First evaluation round, GRETA(2019)11, 10 July 2019) that the Turkish legislation does not contain a specific non-punishment provision in respect of victims of trafficking.

In its comments, the Human Rights Association states that the situation in Türkiye when it comes to sexual offences has not changed. The Partnership Network for Prevention of Violence against Children indicates that the judicial system lacks visibility with regard to the prosecution of cases of sexual abuse involving boys.

Due to the failure to provide the requested information on whether the criminalisation of the use or facilitation of children in prostitution covers all children under the age of 18, on measures taken to address the problem of sexual exploitation of children, on measures taken to strengthen the protection of children, including migrant, refugees, and displaced children, from sexual exploitation and abuse, the Committee concludes that the situation in Türkiye is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

The Committee further concludes that the situation in Türkiye is not in conformity with Article 7§10 of the Charter on the grounds that not all forms of sexual exploitation of children are criminalised and that child victims of sexual exploitation can be criminally prosecuted.

### ***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 a “24/7 Social Media Working Group” has been set up in order to identify the risks that children may face from digital media and to carry out preventive studies. E-books and printed works are examined by the Protection Board. Between 2020 and 2021, debates were held on digital addiction, cyberbullying, child-friendly games and toys, and parental awareness.

The report also states that awareness-raising programmes entitled “Conscious Use of Information Technologies and Internet” are carried out. A nationwide campaign “Let Children Grow up with Peers, not Screens” was conducted between 2018 and 2021. Its purpose was to protect children from uncontrolled and malicious approaches in digital and social media environments. A “Cyber Security Portal” was opened to increase public awareness of cybersecurity.

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

The Committee has previously asked for information on the extent of the trafficking of children as well as measures taken to address the issue. The Committee considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Türkiye was in conformity with Article 7§10 of the Charter. It also requested updated information on measures taken to protect and assist children in vulnerable situations, with particular attention to children in street situations and children at risk of child labour, including those in rural areas and with protected status (Conclusions 2019).

The report states that if it is suspected that a child has been neglected or abused at the workplace, the relevant institutions will be informed. In order to ensure that child labour is monitored more effectively, the “Children Rights and Labour Relations Study Programme” has been implemented in cooperation with UNICEF.

The report further states that social assistance programmes are implemented with due consideration of the specific situation of the household. Special teams visit villages to conduct interviews with families and children and then take action for children considered at risk.

The report provides no information on the extent of the trafficking of children and measures taken to address the issue. The Committee notes from other sources (GRETA Evaluation Report, First evaluation round, GRETA(2019)11, 10 July 2019) that the accommodation capacity of specialised shelters for victims of trafficking is limited, that no specific awareness-raising activities on trafficking for children are planned.

Due to the failure to provide the requested information on the extent of the trafficking of children and measures taken to address the issue, the Committee concludes that the situation in Türkiye is not in conformity with Article 7§10 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

The Committee takes note of the comments submitted by the Confederation of Public Employees Trade Unions to the International Labour Organization, which state that the rate of child labour is high (146,000 children aged 5-14, representing 1.1% of this age group in 2019, were engaged in economic activities as were 720,000 children aged 5-17 years).



## **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 “Guidelines for Parents and Persons Responsible for Childcare during the Coronavirus” were prepared. They provide information on stress management for both adults and children. They also include suggestions on what can be done at home and on online platforms.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 7§10 of the Charter on the grounds that:

- not all forms of sexual exploitation of children are criminalised;
- child victims of sexual exploitation can be criminally prosecuted.

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

List of questions/Information missing:

- whether the criminalisation of the use or facilitation of children in prostitution cover all children under the age of 18;
- on measures taken to address the problem of sexual exploitation of children;
- on measures taken to strengthen the protection of children, including migrant, refugees, and displaced children, from sexual exploitation and abuse;
- on the extent of the trafficking of children and measures taken to address the issue.

## **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 Türkiye, as well as the comments submitted by the Human Rights Association (*İnsan Hakları Derneği - İHD*).

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

In its previous conclusions (Conclusions 2019), the Committee found that the situation in Türkiye was not in conformity with Article 8§1 of the Charter on the ground that the amount of maternity benefits provided to women employed in the private sector was inadequate.

### **Right to maternity leave**

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

### **Right to maternity benefits**

The Committee has previously requested information on whether a woman earning more than the minimum wage was also entitled to an allowance corresponding at least to 70% of her previous wage; on the percentage of women earning a gross daily wage higher than the statutory upper limit and the salary range of this category, or at least, the average monthly wage for women executives and on the right to any kind of benefits for working women who do not qualify for maternity benefit during maternity leave (Conclusions 2019).

In response, the report states that, according to the first paragraph of Article 82 of the Social Insurance and General Health Insurance Act No. 5510, the lower limit of the daily earnings to be taken as a basis to calculate the benefits to be received and the allowances to be given were determined to be one-thirtieth of the minimum wage appropriate for the age of the insured person. The upper limit was 7.5 times the lower daily earnings limit of insured people over 16 years of age. In this context, the upper limit of monthly income was TL26.831,40 (€816) in 2021.

The Committee notes from the information submitted by the Human Rights Association (*İnsan Hakları Derneği - İHD*), that, according to Article 48 of the Labour Law and Articles 17 and 82 of Law No. 5510, women on maternity leave are paid two-thirds of their wages. The one-third reduction of the wage is still applied and creates, according to the association, a serious economic problem in the private sector, as women working as public employees do not have their wages reduced during maternity leave.

The Committee further notes from MISSCEO that the Social Security Institution pays temporary incapacity for work allowance and breastfeeding grant in the scope of maternity insurance. Temporary incapacity for work allowance is an earnings-related benefit paid during maternity. The breastfeeding grant is a flat rate and one-off payment.

According to the Eurostat data for 2021, the gross minimum monthly wage in Türkiye was €346.62 (two-thirds of the minimum wage was €230.84).

The Committee recalls that, under Article 8§1, the level of income-replacement benefits should be fixed so as to stand in reasonable proportion to the previous salary (these shall be equal to the previous salary or close to its value, and not be less than 70% of the previous wage)

and it should never fall below 50% of the median equivalised income (Statement of Interpretation on Article 8§1, Conclusions 2015). If the benefit in question stands between 40% and 50% of the median equivalised income, other benefits, including social assistance and housing, will be taken into account. On the other hand, if the level of the benefit is below 40% of the median equivalised income, it is clearly inadequate and its combination with other benefits cannot bring the situation into conformity with Article 8§1.

The Committee notes from Eurostat that the median equivalised income in 2021 was €2,752 or €229.33 per month. 50% of the median equivalised income was €1,136 per year, or €114.66 per month. In the light of the information submitted, the Committee considers that the situation is in conformity with the Charter.

### ***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 indicates that during the Covid-19 pandemic, as of March 2020, a short-time work allowance was implemented in all sectors, regardless of the type of employment contract, and that a cash wage support was provided to workers who could not benefit from the short-time working allowance. Otherwise, there was no impact on the conditions of entitlement or the amount of maternity benefits.

### *Conclusion*

The Committee concludes that the situation in Türkiye 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 Türkiye.

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

In its previous conclusions (Conclusions 2019), the Committee concluded that the situation in Turkey was not in conformity with Article 8§2 of the Charter on the grounds that:

- the grounds for dismissal of an employee during pregnancy or maternity leave exceeded the permissible exceptions ;
- it had not been established that adequate protection is provided in the event of unlawful dismissal during pregnancy or maternity leave in the case of women employed in the public sector on temporary contracts,
- not all female employees were entitled to reinstatement in the event of unlawful dismissal during pregnancy or maternity leave;
- it had not been established that employees on fixed-term contracts and civil servants have any means of redress in the event of unlawful dismissal on the grounds of pregnancy or maternity,
- there was no provision for adequate compensation in the event of unlawful dismissal during pregnancy or maternity leave.

### ***Prohibition on dismissal***

The Committee previously found that the situation was not in conformity with Article 8§2 of the Charter, as the Labour Act did not provide adequate protection against dismissal during pregnancy or maternity leave (Conclusions 2019).

With regard to private sector employees covered by the Labour Act (No. 4857), the Committee previously noted that, in accordance with Article 18 of the Labour Act, employees with open-ended contracts who had worked for at least six months in an enterprise employing thirty or more people were explicitly protected against dismissal on the grounds of pregnancy or maternity leave.

However, they could still be dismissed during pregnancy or maternity leave for reasons related to the capacity or conduct of the employee or the operational requirements of the enterprise. Dismissal is possible, on the one hand, for reasons related to economic, technological, structural requirements of the enterprise, for example in the context of reorganisation or with a view to increasing its productivity and competitiveness and, on the other hand, for reasons related to the employee’s capacity or conduct, for example in the case of under-performance compared to other employees, lack of skills required and failure to develop them, frequent sickness, behaviour causing or potentially causing a prejudice to the employer, etc.

The Committee also found the situation was not in conformity with Article 8§2 of the Charter as regards employees with an open-ended contract, who had been working for less than six months in an enterprise or work in an enterprise employing fewer than thirty staff: this category of employees can be dismissed without referring to specific reasons for dismissal, provided that the employer complies with the notice periods prescribed by Article 17 of the Labour Act.

The Committee notes that there has been no change to these situations the Committee reiterates its previous conclusion.

In its previous conclusion, the Committee had asked for clarification on the permissible grounds for dismissal and on the protection offered to women employed in the public sector

on temporary contracts. In the absence of this information, the Committee considered that it had not been established that the situation was not in conformity with Article 8§2 (Conclusions 2019).

The report does not provide any further information on this point.

Due to the failure to provide the requested information the Committee concludes that the situation in Türkiye 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 Türkiye of their reporting obligations under Article C of the Charter.

### ***Redress for unlawful dismissal***

In its previous conclusions (conclusions 2015, 2019), the Committee found that the situation was not in conformity with Article 8§2 of the Charter because not all women employees were entitled to reinstatement in the event of unlawful dismissal during pregnancy or maternity leave. The Committee also considered that the situation was not in conformity with Article 8§2 on the grounds that it had not been established that employees on fixed-term contracts and civil servants had legal remedies in the event of unlawful dismissal on the grounds of pregnancy or maternity. Lastly, the Committee also found that the situation was not in conformity with Article 8§2 of the Charter, on the grounds that no provision was made for adequate compensation in the event of unlawful dismissal during pregnancy or maternity leave.

As regards the first point as the situation has not changed, the Committee reiterates its previous conclusion.

No information is provided on remedies for civil servants and employees on fixed term contracts. Due to the failure to provide the requested information the Committee concludes that the situation in Türkiye 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 Türkiye of their reporting obligations under Article C of the Charter.

As regards compensation the report states that female employees who are not covered by labour law and relevant regulations can turn to various complaint mechanisms such as the Türkiye Human Rights and Equality Institution (TIHEK), which was established by Law No. 6701, if they claim to have been discriminated against for gender-related reasons, such as pregnancy and maternity leave. According to Article 3(1) of Law No. 6701, it is forbidden to discriminate against people on the basis of sex, race, colour, language, religion, belief, sect, philosophical or political opinion, ethnic origin, property, birth, marital status, state of health, disability and age. No information on compensation is provided. The Committee therefore reiterates its finding of non-conformity on this point.

### ***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 states that measures were adopted during the pandemic for vulnerable workers, including pregnant workers. A temporary three-month restriction was imposed on the termination of employment contracts by employers, which was extended and implemented during the period from 17 April 2020 to 30 June 2021. Alongside other financial and technical assistance provided to employers and workers during the Covid-19 pandemic, the main purpose of this temporary restriction was to ensure that employees retained their jobs and avoid redundancies during this period. This provision was applied to all employees, including pregnant women and women on maternity leave, whether or not they were subject to Labour Law No. 4857.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 8§2 of the Charter on the grounds that

- the grounds for dismissal of workers during pregnancy or maternity leave who had worked for at least six months in an enterprise employing thirty or more, exceed the exceptions permitted by Article 8§2;
- there is no adequate protection against unlawful dismissal during pregnancy or maternity leave for women who had been working for less than six months in an enterprise or work in an enterprise employing fewer than 30 staff;
- not all female employees are entitled to reinstatement in the event of unlawful dismissal during pregnancy or maternity leave;
- there was no provision for adequate compensation in the event of unlawful dismissal during pregnancy or maternity leave.

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

Information missing:

- On the permissible grounds for dismissal and on the protection offered to women employed in the public sector on temporary contracts;
- Whether employees on fixed-term contracts and civil servants have no means of redress in the event of unlawful dismissal on the grounds of pregnancy or 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 Türkiye.

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 Türkiye 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 Türkiye 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 Türkiye.

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

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

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

The Committee previously noted that pregnant women who normally work at night may be transferred to a daytime post. However, the Committee asked that the next report provide more details of the rules applicable in these circumstances (whether the employed women concerned are transferred to a daytime post until their child is one year old and what rules apply if such a transfer is not possible) (Conclusions 2019).

The report simply states that if deemed necessary as a result of a doctor’s report, a pregnant employee may be assigned to lighter duties. In such cases, no reduction shall be made in her wage. No further information is provided. Due to the failure to provide the requested information, the Committee concludes that the situation in Türkiye is not in conformity with Article 8§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye 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 Türkiye is not in conformity with Article 8§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

Information missing:

- whether where transfer to daytime work is not possible pregnant women, women who have recently given birth or are breastfeeding are entitled to take leave due to the risks posed by night work and are entitled to receive 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 Türkiye.

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

In its previous conclusion, the Committee concluded that the situation was not in conformity with Article 8§5 of the Charter on the ground that that pregnant women, women who have recently given birth or who are nursing their infant are only entitled to unpaid leave when such leave is granted because no other protective measures can be taken to protect them from exposure to risks inherent to their post. (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of non-conformity and 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.

According to the report under the Regulation on the Conditions of Employment Pregnant or Breastfeeding Women, and Breastfeeding Rooms and Child Care Facilities, employees are required to inform their employers in case of pregnancy or breastfeeding. Upon notification, employers must evaluate the potential effects of chemical, physical, biological factors, and working processes that could pose a risk to the health and safety of the pregnant or breastfeeding employee. Based on this evaluation, employers must take general and special measures as outlined in the Regulation. If the evaluation reveals a health and safety risk for the pregnant or nursing employee or an effect on the employee's pregnancy or breastfeeding, the employer must temporarily modify the employee's working conditions and/or working hours to prevent exposure to such risks. If modifying the conditions or hours is not possible, the employer must take the necessary steps to transfer the employee to another job. Pregnant workers can be employed in lighter jobs suitable for their health if a health report deems it necessary. However, the employee's wage cannot be reduced due to the lighter work. If transferring to another job is not feasible, the employee may be granted unpaid leave within the necessary timeframe to protect their health and safety.

The Committee notes from the information provided that there has been no change to the situation previously found not to be in conformity with the Charter; women who must take leave from their post due to the nature of their work are not entitled to receive 100% of their previous wage.

The Committee recalls from previous conclusions that women transferred to another post or granted leave may return to their previous post once their condition permits (Conclusions 2019).

### *Conclusion*

The Committee concludes that the situation in Türkiye 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 Türkiye, as well as the comments from the Human Rights Association ('HRA') and the Partnership Network for Prevention of Violence against Children (*the Partnership Network*).

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 Türkiye was not in conformity with Article 16 of the Charter on the grounds that:

- it had not been established that women were ensured adequate protection, in law and in practice, against domestic violence;
- there was no general system of family benefits;
- it had not been established that vulnerable families received appropriate economic protection.

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

### ***Legal protection of families***

#### ***Rights and obligations, dispute settlement***

- **Rights and obligations of spouses**

In its previous conclusion (Conclusions 2019), the Committee asked for updated information on the measures taken to ensure the equality of treatment of spouses within the marriage and the family, also taking into account the concerns raised by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in its Concluding Observations adopted in 2016. In the meantime, it reserved its position on this point.

In response, the report indicates that according to the Constitution, "women and men have equal rights. The state is responsible for ensuring this equality. The measures to be taken for this purpose may not be interpreted as contrary to the principle of equality". In addition, Article 41 of the Constitution on protection of the family and the rights of the child, specifies that the family is the foundation of Turkish society and is based on equality between spouses. It adds that the State will take the necessary measures for the peace and welfare of the family, especially the protection of the mother and children. Article 186 of the Civil Code states that the spouses themselves choose the house in which they will live together and jointly administer the marriage union.

- **Settlement of disputes**

In its previous conclusion, the Committee asked for information on the provision of legal arrangements for the settlement of disputes, in particular as regards care, maintenance and custody of children, and visitation rights.

In reply, the report indicates that divorce is governed by Article 161 of the Civil Code. Article 169 stipulates that, when a divorce or separation proceedings are opened, the judge shall *ex officio* take the necessary measures for spousal maintenance, management of property, and the care and protection of children. According to Article 336 of the Civil Code, mother and father shall have custody together as long as the marriage lasts. In the event of marital break-up or legal separation, the judge may award custody to one of the spouses. Under Article 339, the parents shall make and implement the necessary decisions regarding the care and education of the child, taking into account the child's best interests. The report adds that the

parent of a child whose custody has not been transferred to him/her should contribute to the child's care and education costs in proportion to his/her ability.

In addition, the report sets out the relevant provisions governing child custody, as laid down in the Child Protection Law No. 5395 and the Civil Code. In particular, the report indicates that Article 5 of the Child Protection Law includes protective and supportive measures for children.

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

First of all, the Committee notes that Türkiye has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) in March 2012, which entered into force in Türkiye in August 2014. However, with effect of 1 July 2021, Türkiye withdrew from the Istanbul Convention and is no longer a state party to this Convention.

In this context, the Partnership Network points out in its comments that Turkey's withdrawal from the Istanbul Convention has paved the way for gender-based violence and deprived children of protection mechanisms.

In its previous conclusion, the Committee found **out** that the situation was not in conformity with Article 16 of the Charter on the ground that it has not been established that women were ensured adequate protection, in law and in practice, against domestic violence. It requested updated information on domestic violence against women and related convictions, on the use of protection orders, the implementation of the various measures and their impact on combating domestic violence against women, including in the light of observations and recommendations made by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and the Committee on the Elimination of Discrimination against Women (CEDAW).

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.

In response, the report provides detailed information on the content of Law No. 6284 on the protection of family and prevention of violence against women. The Committee refers to its previous conclusion (Conclusions 2015) for its description. In this regard, the Partnership Network states in its comments that Law No. 6284 fails to fulfil the four fundamental principles of the Istanbul Convention regarding prevention, prosecution, effective investigation, and comprehensive policies. The Committee also takes note of the updated information on the non-legislative measures taken since its latest assessment.

The report indicates that in order to combat violence against women more effectively, Law No. 7406 of 12 May 2022 (outside the reference period) amending Criminal Law and other laws has increased the penalties for offences of intentional homicide, intentional wounding with intent, threats, torture, including torture committed against women. In addition, free legal counselling was provided to women victims of violence.

The report also states that the 4<sup>th</sup> National Action Plan for Combating Violence Against Women for 2021-2025 was prepared with the support and participation of all relevant institutions and organisations, under the coordination of the Ministry of Family and Social Services. It entered into force on 1 July 2021. The Plan contains 28 strategies and 227 activities, prepared on the basis of five main objectives: (1) access to justice and legislation, (2) policy and coordination; (3) protective preventive services; (4) social awareness, and (5) data and statistics. The report adds that in order to effectively implement and monitor the execution of the plan, another plan – the Action Plan on Violence against Women 2022 – was prepared and signed on 23 March 2022 (outside the reference period). Moreover, the provincial action plans for combating violence against women have been drawn up and are being carried out in all provinces of Türkiye.

In its comments, the Partnership Network states that there is a lack of analysis and reporting on the effectiveness of previous action plans in eliminating violence against women and girls. According to the Partnership Network, reports from relevant NGO and data on violence against women and girls show that the strategic objectives set out in previous action plans have not been achieved.

The “Alo-183 Social Support Hotline”, run by the Ministry of Family and Social Services, offers psychological, legal and economic counselling to women and children who have suffered or are at risk of suffering violence and who need support and assistance.

In its comments, the Partnership Network states that the "ALO-183" hotline serves as a single point of contact for numerous social issues (families, women, children, the elderly, and people with disabilities) but that it can only provide information to callers and is unable to provide solutions for emergency situations.

The report also indicates that “Contact Points for Combating Violence” / “anti-violence contact points” have been established in Social Service Centres, which are numerous in the districts of each province. The aim of these centres is to provide victims of violence with services operating 24/7 in 393 contact points and 149 women's shelters throughout Turkey.

In this regard, the HRA indicates in its comments that the number of contact points is very insufficient. The HRA states that the large number of types of municipalities, listed by the Ministry of the Interior (in the report), shows that there are not enough contact points for the protection of women and that there are not enough shelters for women.

Additionally, the Partnership Network indicates that the number of shelters and the social work conducted in the shelters are inadequate. It also notes the lack of specific social work for children. Moreover, the impact of domestic violence on children is not visible as there are no mechanisms for children to seek help in cases of domestic violence. For example, it states that boys over the age of 12 are not allowed to stay in shelters with their mothers, forcing women to continue living in violent environments.

According to the report, the “KADES” emergency support mobile phone application was developed by the Ministry of Internal Affairs in cooperation with the Ministry of Family and Social Services to help prevent violence against women and children. The app, available in 11 languages, has been downloadable free of charge on a smartphone from 24 March 2018. If a woman feels in danger from her partner or any other man, she can press an alert button that will connect her directly to police and security force hotlines.

Regarding awareness-raising activities, the report indicates that a total of some 2.6 million persons, including soldiers, civil servants, religious leaders, health workers, teachers and police officers, have received training and attended workshops as part of the training programmes launched since 2007 to combat violence against women. The Committee also takes note of other various awareness-raising activities undertaken by the Ministry of Internal Affairs and the Ministry of Family and Social Services during the reference period.

In 2022, the "Study on Violence against Women in Türkiye with Prevention, Intervention and Policy Aspects and the Impact of the Covid-19 Pandemic" was conducted to assess the impact of the pandemic on violence against women, to measure public perception, attitude and awareness of violence against women in 81 provinces, to assess the implementation of Law No. 6284 and to identify the risks of violence against women.

By Presidential Decree No. 63 on 10 June 2020, the Department of Legal Support and Work with Victims was created under the Ministry of Justice with the aim of carrying out activities relating to the development and implementation of rights and services for vulnerable persons (consultations, access to justice, witness services, benefits, etc.). In addition, the introduction of the Directorate of Judicial Support and Victims Services within the said Department has made it possible to provide direct services to victims in courthouses.

With regard to judicial procedures in cases of violence against women, the report indicates that investigations into domestic violence and violence against women are carried out by private offices set up within the Attorney-General's Office and by certain public prosecutors who are responsible for conducting these investigations.

In its comments, the HRA points out that the number of cases of violence against women is on the rise (in 2020, there were 300, compared to 334 in 2022).

In view of all the information in its disposal, the Committee considers that the situation is not in conformity with Article 16 of the Charter and reiterates its previous conclusion of non-conformity, on the ground that the measures taken do not ensure an adequate protection of women against domestic violence.

Due to the failure to provide requested information on the use of protection orders and on incidence and conviction rates, the Committee concludes that the situation in Türkiye is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

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

### ***Childcare facilities***

In its previous conclusion (Conclusions 2019), the Committee reserved its position on this point and asked for comprehensive and updated information on the legal framework applying to childcare facilities, including staff training and qualifications, quality control of facilities and their geographical coverage as well as the number and percentage of children attending childcare facilities.

The Committee notes that the report provides information on institutionalised childcare. Due to the failure to provide requested information about preschool education and care services, the Committee concludes that the situation in Türkiye is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

In its comments, the Partnership Network indicates that for the 2021-2022 school year, the net enrolment rate in pre-school education at age 5 rose to 81.6%. Preschool enrolment rates vary among regions.

According to the HRA, more day-care centres / crèches could be opened for the children of public-sector employees (in accordance with Article 191 of Law No. 657 on Civil Servants) and should be opened for to care for the children of women employed in the private sector (in accordance with the "Regulation on the Conditions of Employment of Pregnant or Breastfeeding Women, Nursing Rooms and Children's Dormitories"). Moreover, private sector employees are at a significant disadvantage compared to those employed in public institutions due to the lack of day-care centres for their children. More specifically, the number of nursery schools and crèches in public institutions is 180 with 8,441 children cared for, while in private sector workplaces, there are 6 nursery schools and crèches with 222 children cared for.

### ***Family benefits***

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

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

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

The Committee notes from the report that the median equivalised household disposable income stood at 37,400 TL (€2,881 per year; €240 per month) in 2021.

In its previous conclusions (Conclusions 2019, 2015, 2011, 2006 and 2004), the Committee found out that the situation was not in conformity with Article 16 of the Charter on the ground that there was no general system of family benefits.

The report indicates that the Ministry of Family and Social Services implements several social assistance programmes for citizens in need through the Social Assistance and Solidarity Foundation, within the framework of various legal arrangements further specified in the report. Current social assistance programmes are classified as regular and temporary family allowances, housing and food aids, aids for the disabled and the elderly, health aids, educational aids, etc. According to the legislation on social assistance programmes, the condition for eligibility is that no one in the household is covered by social security, but if household members are covered, the monthly income per household member must be less than 1/3 of the net minimum wage (according to the rapport, TL 1,833.45 for 2022 (€141 at the rate of 31 December 2021)).

In its comments, the Human Rights Association states that there is no family insurance in Türkiye, but instead there are low-level social benefits enshrined in various laws under various designations. As regards the public sector, the HRA states that, according to Articles 202-206 of Law No. 657, public employees can receive family allowance under conditions. In the private sector, spousal and child allowances can only be granted through collective labour agreements. The HRA states that the right for family benefits recognised for public servants is not granted to private sector workers.

In the light of all the information at its disposal, the Committee notes that, during the reference period, there was still no general system of family benefits; therefore, it maintains its previous conclusion on this point.

### ***Measures in favour of vulnerable families***

In its previous conclusion (Conclusions 2019), the Committee considered that the situation in Türkiye was not in conformity with Article 16 of the Charter on the ground that it had not been established that vulnerable families received appropriate economic protection.

The report reiterates that there are 50 different thematic social assistance programmes for citizens in need. Each is classified according to the area it covers: regular and temporary family allowances, housing and food aids, aids for the disabled and the elderly, health aids, educational aids and project support. The report adds that economic protection of vulnerable households not only includes social benefits, but also social security and social services. In 2021, 4.3 million citizens benefited from social assistance programmes implemented by the Ministry of Finance, and Türkiye's total expenditure on social assistance amounted to TL 60.9 billion (around €4.5 billion).

The Committee understands from the report that a condition of eligibility for these programmes is that no one in the family is covered by social security, but if household members are covered, the monthly income per household member must be less than 1/3 of the net minimum wage.

Regarding Roma families, the report indicates that, in cooperation with government institutions and organisations, activities are being carried out in the regions where the Roma live in order to expand and facilitate access of Roma to services in the areas of education, employment, health care, housing, social services and social assistance. The report also states that additional measures and actions for economic and social support to Roma families will be

taken within the framework of the Strategy Document and Action Plan for Roma, which is planned to be published in 2023 (outside the reference period).

In its comments, the Partnership Network indicates that it is often impossible for Roma to be included in the social security system due to their work in day jobs and their traditional occupations.

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).

The report indicates that "Coal Aid", provided through the Social Assistance and Solidarity Foundation of the Ministry of Family and Social Services, is provided to needy households with no social security or to households with social security but whose monthly income per household member is less than 1/3 of the net minimum wage.

The Committee takes note of the aid provided under other programmes: "Electricity Consumption Support" (from TL 130.09 (€10) to TL 260.19 (€20); the amount depends on the number of household members) and "Natural Gas Consumption Support" (from TL 900 (€70) to TL 2,500 (€193); the amount depends on the climatic conditions of the region, among others).

On the basis of all the information at its disposal, the Committee considers that the situation is not in conformity with Article 16 of the Charter on the ground that vulnerable families do not receive appropriate economic protection.

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

In response, the report indicates that household eligibility for financial support was determined by the Social Protection Programme, implemented as part of the response to the negative impact of the pandemic. Care was taken to ensure that applications were received through the e-government portal to minimise physical contact. Thus, through the implementation of the Social Protection Programme and the "We Are Enough for Us, Türkiye" campaign during the pandemic, cash assistance worth TL 1,000 (€100) was provided directly to households in need. In addition, under another programme, "Total Closure Social Assistance Programme", cash assistance amounting to TL 1,100 (€110) was paid to poor households between 30 April and 17 May 2021. The Committee notes that cash assistance worth TL 11 billion (approximately € 0.8 billion) was provided to 7.2 million households under the above-mentioned programmes.

### *Conclusion*

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

- the measures taken do not ensure an adequate protection of women against domestic violence;
- there is no general system of family benefits;
- vulnerable families do not receive appropriate economic protection.

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

Information missing:

- the use of protection orders in case of domestic violence, incidence and conviction rates in case of domestic violence;

- staff training and qualifications, quality assessment of childcare facilities, geographical coverage of the childcare facilities, the number and percentage of children attending childcare facilities;



## **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 Türkiye and in the comments by the Human Rights Association and the Partnership Network for Prevention of Violence against Children.

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.

In its previous conclusion the Committee concluded that the situation in Türkiye was not in conformity with Article 17§1 of the Charter on the grounds that not all forms of corporal punishment were prohibited in all settings, the maximum length of pre-trial detention was excessive, and the age of criminal responsibility 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.

### ***The legal status of the child***

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

The report states that the birth registration of children under international protection or temporary protection for children born in Türkiye is carried out by the General Directorate of Population and Citizenship Affairs in accordance with the data provided by the Ministry of Health. There have been no problems with the birth registration of Roma children. No unidentified Roma citizens have been reported in the last five years.

The report adds that stateless persons are issued with a Stateless Person Identity Document, which provides them with the right to legally reside in Türkiye.

In its comments, the Partnership Network for Prevention of Violence against Children states that it is not possible to obtain clear information on the number of unregistered Afghans in Türkiye. In addition, babies born to Syrian, Afghan, Iranian and Iraqi refugees in Türkiye are considered stateless. The Government did not provide a response. The Committee expresses concern about the seriousness of these allegations.

### ***Protection from ill-treatment and abuse***

The Committee has previously concluded that the situation in Türkiye was not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment were prohibited in all settings (Conclusions 2019).

In its comments, the Partnership Network for Prevention of Violence against Children states that physical punishment for disciplinary purposes is not considered a crime and corporal punishment is still not explicitly banned.

The report provides no information with regard to the conclusion of non-conformity, the Committee therefore reiterates the conclusion of non-conformity on the ground that not all forms of corporal punishment are prohibited in all settings.

### ***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 all primary healthcare services for all children are free of charge in Türkiye. There are also various forms of assistance available to help children from the most disadvantaged families.

The report also states that the “Social Cohesion Programme”, implemented in cooperation with UNICEF in order to facilitate social inclusion, supports equal opportunities in accessing rights and information. Activities are carried out in 25 provinces for Turkish families and refugee families with children in the fields of social cohesion, education and child protection. Under the agreement between Türkiye and the German Development Bank, a project was implemented between 2018 and 2021 to promote the resilience and socioeconomic cohesion of Syrians benefiting from temporary protection.

The report further states that Provincial Committees on the Rights of the Child have been established in each province to implement the principles and provisions of the UN Convention on the Rights of the Child. The Committees are comprised of students, elected presidents of student councils from all schools in the province, students from the school clubs on children’s rights, children in employment, children who have been dragged into crime, children under protection and children with disabilities. These Committees raises public awareness, prepares action plans and involves children in work directed towards combatting child poverty and social exclusion.

In its comments, the Partnership Network for Prevention of Violence against Children states that the Social and Economic Support System remains inadequate for children living below the poverty line and experiencing food insecurity. Moreover, it is not accessible to all children. Many families are becoming homeless and children in tents and shacks face threats to their well-being and safety. The Government did not provide a response.

The Committee notes from EUROSTAT that 45.2% of children in Türkiye in 2021 were at risk of poverty or social exclusion, an increase in comparison with 2018, when the percentage was 42.4%. In its comments, the Human Rights Association states that the rate of children at risk of poverty is extremely high. The Committee points out that the rate of children at risk of poverty or social exclusion is extremely high and considers that the situation in Türkiye 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 asked whether children in an irregular migration situation, accompanied or not, could be detained and, if so, under what circumstances. It also requested for further information on measures taken to ensure that accommodation facilities for children in an irregular migration situation, whether accompanied or not, were appropriate and were adequately monitored. It also asked whether children in an irregular migration situation had access to healthcare. It also asked what assistance was given to children in an irregular migration situation to protect them against negligence, violence and abuse, in particular Syrian children with protected status and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Türkiye was in conformity with Article 17§1 of the Charter. Finally, the Committee asked whether Türkiye 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 various services have been set up to strengthen access to justice for vulnerable victims, such as children. The families of irregular migrants apprehended by law enforcement officers are housed separately from other foreign nationals in removal centres. Removal centres are constantly monitored.

The report further states that irregular migrants benefit from emergency services and primary healthcare. Irregular migrants who have not been registered in Türkiye can receive emergency health services. In its comments, the Partnership Network for Prevention of Violence against Children states that undocumented migrants can only access healthcare services through individual efforts and social networks established for this purpose. The Government did not provide a response. The Committee expresses concern about these allegations.

The report states that, regardless of nationality and situation, in case of any signs of ill-treatment, incidents are referred to the judicial authorities. Measures are taken to avoid repeated victimisation. A project to facilitate access to justice for refugees was carried out between 2018 and 2019, and aimed to increase access to justice for Syrians and other persons granted temporary protection.

Due to the failure to provide requested information on whether Türkiye uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have; on the conditions under which children in an irregular migration situation can have access to healthcare; on measures taken to ensure that accommodation facilities for children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored, the Committee concludes that the situation in Türkiye is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

It appears from other sources (UN Human Rights Council Working Group on the Universal Periodic Review, thirty-fifth session, 20-31 January 2020) that children can be detained because of their parents' immigration status. The Committee considers that the situation in Türkiye is not in conformity with Article 17§1 of the Charter on the ground that children in an irregular migration situation can be detained.

In reply to the targeted question, the report states that in the event of a disaster and/or an emergency, a cash allowance is paid to heads of families with children. Psychosocial support services are provided in case of crisis situations. An early warning and response system has been put in place to cope with serious threats to public health affecting society as a whole, especially vulnerable groups.

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

In its previous conclusion, the Committee asked for up-to-date information regarding the total number of children in foster care as opposed to institutions, it also asked what were the criteria for the restriction of parental rights, and whether the decisions regarding the placement of children outside their home could be appealed against. The Committee considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Türkiye was in conformity with Article 17§1 of the Charter (Conclusions 2019).

The report provides no information requested.

In its comments, the Partnership Network for Prevention of Violence against Children states that there is no segregated data available regarding children in institutional care. Moreover, when children leave care institutions without permission, they are reported to the authorities as runaways; if they don't return to their institutions within six months, their record is deleted and state care and protection ends. In 2021, 13,302 children were placed in institutional care and 8,459 children in foster care. The Government did not provide a response.

Due to the failure to provide requested information on the total number of children in foster care as opposed to institutions; on the criteria for the restriction of parental rights; whether the decisions regarding the placement of children outside their home could be appealed against, the Committee concludes that the situation in Türkiye is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

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

The Committee has previously concluded that the situation in Türkiye was not in conformity with Article 17§1 of the Charter on the grounds that the age of criminal responsibility was too low and that the maximum length of pre-trial detention of children was excessive. It also asked whether girls in prisons were separated from women. It also asked whether children could be placed in solitary confinement, if so, for how long and under what circumstances (Conclusions 2019).

The report states that the age of criminal responsibility remains unchanged and it is set at 12 years. The Committee reiterates its conclusion of non-conformity on the ground that the age of criminal responsibility is too low.

The report states that girls are kept apart from women in prisons.

In its comments, the Partnership Network for Prevention of Violence against Children states that girls are held in adult prisons and are unable to benefit from detention conditions specific to children. Moreover, pre-trial detention of children is not used as a measure of the last resort. The Government did not provide a response. The Committee expresses concern about the seriousness of these allegations.

The report states that children are not placed in solitary confinement.

The report provides no information on the maximum length of pre-trial detention. The Committee therefore reiterates its conclusion of non-conformity on the ground that the maximum length of pre-trial of children is excessive.

### *Conclusion*

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

- not all forms of corporal punishment are prohibited in all settings;
- the rate of children at risk of poverty is too high;
- children in an irregular migration situation can be detained;
- the age of criminal responsibility is too low;
- the length of pre-trial detention of children is excessive.

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

List of questions/Information missing:

- whether Türkiye uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have;
- on measures taken to ensure that accommodation facilities for children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored;
- on the conditions under which children in an irregular migration situation can have access to healthcare;
- on the total number of children in foster care as opposed to institutions;
- what are the criteria for the restriction of parental rights;
- whether the decisions regarding the placement of children outside their home could be appealed.

## **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 Türkiye and in the comments by the Human Rights Association, by the Partnership Network for Prevention of Violence against Children and by the Association for Monitoring Equal Rights (AMER).

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.

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.

### ***Enrolment rates, absenteeism and drop out rates***

In the previous conclusion, the Committee requested information on enrolment rates, absenteeism and drop out rates as well as information on measures taken to address issues related to these rates (Conclusions 2019).

The report states that in 2021, the enrolment rate in primary education was 98.44%, in lower secondary education – 98.38%, and 92.03% in upper secondary education. The Committee notes from other sources (UNESCO database) that the enrolment rates in 2021 were as follows: 99.78% in primary education, 99.89% in lower secondary education and 92.08% in upper secondary education.

The report further states that since the outbreak of the Covid-19 pandemic, school attendance has been closely monitored to identify absenteeism.

In its comments, the Human Rights Association says that, according to the data for the 2021/2022 academic year, approximately 203,483 children in the 5-17 age group are not attending school in the earthquake zone. Research shows that children whose links with school are weakened are more likely not to return to education after a disaster. The Government did not provide a response.

In its comments, the Partnership Network for Prevention of Violence against Children states that there are no comprehensive and disaggregated data on the education system. There is no systematic monitoring of school drop outs and absenteeism. Moreover, preventive mechanisms have not been developed. The Government did not provide a response.

The Committee takes note with deep concern the allegations raised by the Human Rights Association and the Partnership Network for Prevention of Violence against Children.

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

The Committee has previously asked for updated information on the financial and material support available to families to assist with the cost of schooling and to encourage attendance. It also asked what measures had been taken to ensure that parents were not obliged to

contribute to the costs of public education by requesting a contribution from them (Conclusions 2019).

The report states that textbooks and educational materials are free in primary education institutions. Allowances are paid for clothing and stationery. Under various programmes, uniforms, shoes, bags and stationery are provided to families in need. Free lunches and transportation are provided to pupils in need. Cash benefits are paid to families who cannot send their children to school in order to encourage attendance.

### ***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 for confirmation that the regulations on education covered all children in an irregular migration situation, not just those with temporary protection status. It also asked for information on Syrian children attending school and on the measures taken to increase the school enrolment rate of Syrian children, particularly those living outside the camps. It also asked about measures adopted to promote equal access to education for other groups, such as Roma children and children in rural areas, and about measures taken to ensure the right to education for children in street situations (Conclusions 2019).

The report states that Social Solidarity Centres are operating in regions with a high concentration of Roma people. The “Strategy Document for Roma People” includes two action plans and three implementation periods: 2016-2018, 2019-2021 and 2022-2025. Substantial efforts have been made to ensure that Roma children’s have access to education from pre-school through to primary and secondary school. The goal is to achieve a 100% school enrolment rate, especially for 5-year-olds. Daily attendance is also monitored. In provinces with high levels of absenteeism, the reasons for this situation are identified and solutions developed.

In addition, according to the report, several projects have been implemented to provide social, psychological, academic support to all children from disadvantaged groups, including Roma children.

In its comments, AMER states that children with disabilities face inequality in access to education while Roma women and girls face exclusion in education. The Government did not provide a response.

In its comments, the Partnership Network for Prevention of Violence against Children states that children face discrimination in education and the education system is not inclusive. The Government did not provide a response.

The Committee takes note with deep concern the allegations raised by AMER and the Partnership Network for Prevention of Violence against Children.

Due to the failure to provide the requested information on the enrolment rate of Syrian children in school, particularly for children living outside camps, the Committee concludes that the situation in Türkiye 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 Türkiye of their reporting obligations under Article C of the Charter.

### ***The voice of children in education***

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

The report states that school student councils have been set up in primary and secondary schools, and that, through them, children participate in matters relating to education. The

“Strengthening the Culture of Democracy in Basic Education” project started in 2018 and aims to increase democratic competencies in basic education, promote a democratic culture in schools, and raise awareness of democratic competencies, human rights and democracy in society.

### ***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 online training sessions on peer bullying and cyberbullying were held for 4,000 administrators, tutors, guidance counsellors and psychological advisers. Four awareness-raising programmes have been prepared for schools. Youth centres also carry out volunteer activities to raise awareness and prevent bullying, which helps young people to develop tolerance, sharing and the ability to take responsibility for their actions.

In its comments, the Partnership Network for Prevention of Violence against Children reports that there is no country-wide programme specifically addressing peer bullying in schools. The Government did not provide a response.

### ***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 the boarding schools took the necessary health measures related to Covid-19. To support e-learning, 1,000 lessons in video format were created and published, as well as 750 audio lessons. Distance learning was implemented. For pupils who were unable to attend the programme for pupils with learning difficulties, the programme was repeated. Equipment was distributed to pupils who were unable to attend school due to a chronic illness. Support and information activities were carried out for hearing-impaired pupils, courses were translated into sign language.

In its comments, the Partnership Network for Prevention of Violence against Children states that during Covid-19, children with special educational needs were particularly affected by the lack of interaction with their teachers. Children with visual or hearing impairments were left out as the remote education programmes did not include audio description, sign language, subtitles or similar tools. The Government did not provide a response.

### ***Conclusion***

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

List of questions/Information missing: on the school enrolment rate of Syrian children, particularly that of children living outside the camps.



**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 1 - Assistance and information on migration*

The Committee takes note of the information contained in the report submitted by Türkiye and in the comments submitted by the Human Rights Association (the “IHD”).

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

In its previous conclusion (Conclusions 2019), the Committee considered that the situation in Türkiye was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that:

- migrant workers were provided with adequate free assistance services and information;
- measures against misleading propaganda relating to emigration and immigration had been taken.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusions of non-conformity and to the questions raised in its previous conclusion.

***Migration trends***

In reply to the Committee’s question for up-to-date information (Conclusions 2019), the report provides statistical data on the number of registered foreigners in Türkiye, namely over 5 million in total consisting of 1,4 million foreigners with valid residence permits, 320.000 foreigners seeking international protection or status, and 3,5 million Syrians under Temporary Protection (SuTPs). The report states that Türkiye has been facing significant irregular migration pressure due to the ongoing conflicts, wars, and poverty in neighbouring countries on Türkiye’s eastern borders and several African countries. The number of irregular migrants detected in Türkiye during the period 2019-2022 was as follows: 454.662 in 2019, 122.302 in 2020, 162.996 in 2021, and 278.313 in 2022.

***Free services and information for migrant workers***

In its previous conclusion, the Committee considered that the situation was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that migrant workers are provided with adequate free assistance services and information, in particular on issues concerning regular living and working conditions and related formalities (Conclusions 2019).

The report does not provide the requested information.

The Committee recalls that this provision guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate (Conclusions I (1969), Statement of Interpretation on Article 19§1). Information should be reliable and objective, and cover issues such as formalities to be completed and the living and working conditions they may expect in the country of destination (such as vocational guidance and training, social security, trade union membership, housing, social services, education and health) (Conclusions III (1973), Cyprus).

The Committee notes in the comments submitted by the Human Rights Association (“IHD”) that in its report on Turkey as of the end of 2020, the Refugee Rights Centre in Turkey concluded that asylum-seekers were not provided with sufficient information about their rights,

obligations and procedures in practice, and that they have difficulty accessing such information.

The Committee recalls that it repeatedly found that the situation was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that migrant workers were provided with adequate free assistance services and information (see Conclusions 2011, 2015, 2017 and 2019). It considers therefore that the situation is not in conformity with Article 19§1 of the Charter on the ground that migrant workers are not provided with adequate free assistance services and information.

### ***Measures against misleading propaganda relating to emigration and immigration***

In its previous conclusion, the Committee considered that the situation in Türkiye was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that measures against misleading propaganda relating to emigration and immigration had been taken (Conclusions 2019).

The report does not provide information on any measures taken against misleading propaganda relating to emigration and immigration in particular.

The Committee notes in the comments submitted by IHD that during the presidential and parliamentary elections on 14 May 2023, anti-refugee/asylum-seeker/migrant hate speech emerged as one of the most important problems. The IHD report on hate crimes and discriminatory practices in Turkey published in 2020 revealed shortcomings in this regard.

The Committee recalls that statements by public actors are capable of creating a discriminatory atmosphere. Racist misleading propaganda indirectly allowed or directly emanating from the state authorities constitutes a violation of the Charter (*Centre on Housing Rights and Evictions (COHRE) v Italy*, Complaint No. 58/2009, decision on the merits of 25 June 2010). The Committee stresses the importance of promoting responsible dissemination of information. It considers that in order to combat misleading propaganda, there must be effective mechanisms to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere.

The report does not provide information demonstrating that such measures and mechanisms are in place to fight against racist misleading propaganda in relation to emigration and immigration. The Committee thus considers that the situation in Türkiye is not in conformity with Article 19§1 of the Charter on the ground that adequate measures against misleading propaganda relating to emigration and immigration have not been taken.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 19§1 of the Charter on the grounds that:

- migrant workers are not provided with adequate free assistance services and information;
- adequate measures against misleading propaganda relating to emigration and immigration have not been taken.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 2 - Departure, journey and reception*

The Committee takes note of the information contained in the report submitted by Türkiye and in the comments submitted by the Human Rights Association (the "IHD").

The Committee recalls that no targeted questions were asked for Article 19§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 deferred its conclusion, pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of deferral.

***Immediate assistance offered to migrant workers***

The report provides information on assistance and protection afforded to applicants and beneficiaries of international protection who benefit from medical insurance, food and they are accommodated in reception and accommodation centres (under the Law on Foreigners and International Protection No. 6458 of 4 April 2013). In its previous conclusion, the Committee asked whether appropriate assistance is offered in practice to all migrant workers who are faced with an emergency or particular difficulty, not only to the persons under international protection (Conclusions 2019).

The Committee also asked that the report provide a full and up to date description of the assistance available to migrant workers upon arrival and during reception and underlined that should the next report not provide comprehensive information on these issues, there will be nothing to establish that the situation is in conformity with the Charter (Conclusions 2019).

The report indicates that the rights of migrant workers are protected under International Labour Law No. 6735. The report states that social security rights of foreigners who have a work permit or a work permit exemption are guaranteed in accordance with the Social Insurance and General Health Insurance Law No. 5510 of 31 May 2006. Under Article 60 (1) a) of Law No. 5510, persons employed by one or more employers benefit from health services as universal health insurance holders.

The report adds that foreigners who are under international protection or temporary protection in Türkiye are entitled to apply for assistance from provincial Social Assistance and Solidarity Foundations (SYDV) without discrimination based on their status as workers, immigrants, or refugees. Additionally, all registered immigrants with special needs in Türkiye are eligible for services provided under the Social Services Law, Child Protection Law, and Family Protection and Prevention of Violence against Women Law.

***Conclusion***

The Committee concludes that the situation in Türkiye is in conformity with Article 19§2 of the Charter.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 3 - Co-operation between social services of emigration and immigration states*

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

The Committee recalls that no targeted questions were asked for Article 19§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

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

*Conclusion*

The Committee concludes that the situation in Türkiye is in conformity with Article 19§3 of the Charter.

## **Article 19 - Right of migrant workers and their families to protection and assistance**

### *Paragraph 4 - Equality regarding employment, right to organise and accommodation*

The Committee takes note of the information contained in the report submitted by Türkiye and in the comments submitted by the Human Rights Association (the "IHD").

The Committee recalls that no targeted questions were asked for Article 19§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).

In its previous conclusion (Conclusions 2019), the Committee concluded that the situation in Türkiye was not in conformity with Article 19§4 of the Charter on the ground that migrant workers have no equal access in employment to professions not related to public security.

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 questions raised in its previous conclusion.

### ***Remuneration and other employment and working conditions***

In its previous conclusion, the Committee noted that migrant workers were still not entitled equal access to certain employments in fields such as dentistry, veterinary, pharmaceuticals, tourism or fishery, in which such a restriction cannot be objectively justified by reference to the sovereign prerogatives of the state. Accordingly, it upheld its conclusion of non-conformity with the Charter in this respect (Conclusions 2019).

The report provides the same list of professions that are only allowed to be performed by Turkish citizens that the Committee took note of previously. The Committee notes that the situation which it has previously found to be in non-conformity with the Charter has not changed. It therefore reiterates its conclusion of non-conformity on this point.

### ***Accommodation***

The Committee noted previously that not all foreigners were entitled to buy property and estate and that certain limits applied to the size and location of property which foreigners could buy in Turkey. It asked for clarifications on what restrictions in this regard applied to migrant workers. It also asked for confirmation, in light of any relevant statistical data, that migrant workers could apply for access to public housing and other housing benefits without discrimination (Conclusions 2015).

In its previous conclusion, the Committee noted that the information provided still did not explain what restrictions apply to migrant workers. The report did not reply, moreover, to the question about the access to public housing and other housing benefits. The Committee thus recalled its questions and underlined that should the next report not provide comprehensive information in this respect, there will be nothing to show that the situation is in conformity with the Charter on this point (Conclusions 2019).

The report reiterates the information provided previously that the application of the reciprocity requirement in the acquisition of property by foreigners has been abandoned and that the total area of immovable property which they could purchase was increased. The report does not provide information on the access to public housing and other housing benefits such as subsidised housing or housing aids.

Due to the failure to provide the information on access of migrant workers and their families to subsidised housing or housing aids, such as loans or other allowances, the Committee concludes that the situation in Türkiye is not in conformity with Article 19§4 of the Charter. The

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

### ***Monitoring and judicial review***

In its previous conclusion, the Committee asked that the next report provide comprehensive clarifications on all aspects of monitoring and of the judicial review available in cases of alleged discrimination, so that it can assess the situation in full. Meanwhile, it reserved its position on this point (Conclusions 2019).

The report indicates that in case of an allegation of discrimination, there are various mechanisms available under national legislation which can be classified into non-judicial (administrative) and judicial.

The report provides detailed information on the Human Rights and Equality Institution (TİHEK) established by Law No. 6701 which has as primary mandate the prevention and fight against discrimination. The report states that TİHEK is responsible and authorised to examine, investigate, decide, and follow up on potential violations of non-discrimination *ex officio* or upon application. Anyone who claims to have been harmed by a violation of the prohibition of discrimination can apply to TİHEK. In case of detection of discrimination, under Article 25 (1) of the Law No. 6701, the TİHEK can impose administrative fines ranging from EUR 153 and EUR 2,297 (TRY 2,674 and TRY 40,179) in 2022 depending on the gravity of the impact and consequences of the breach, the financial status of the perpetrator and the aggravating effect of multiple discrimination, if applicable.

The report provides further information on the legislation applicable to situations of discrimination in the labour market under the Labour Law No. 4857 and Law No. 6701 on “Employment and Self-employment”.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 19§4 of the Charter on the ground that migrant workers do not enjoy equal access in employment to certain professions not related to public security.

Due to the failure to provide the information listed below the Committee concludes that the situation in Türkiye is not in conformity with Article 19§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter. List of information missing:

- information on access of migrant workers and their families to subsidised housing or housing aids, such as loans or other allowances.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 5 - Equality regarding taxes and contributions*

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

The Committee recalls that no targeted questions were asked for Article 19§5 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 found the situation in Türkiye to be in conformity with the Charter (Conclusions 2019), there was no examination of the situation in 2023 on this point. Therefore, the Committee reiterates its previous conclusion.

*Conclusion*

The Committee concludes that the situation in Türkiye is in conformity with Article 19§5 of the Charter.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 6 - Family reunion*

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

The Committee points out that no targeted questions were asked in relation to Article 19§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 report 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 Türkiye was not in conformity with Article 19§6 on the grounds that the requirement that family members of a migrant worker reside in Türkiye for three years before acquiring an independent right of residence was excessive and that social benefits were excluded from calculation of the income of a migrant worker who has applied for family reunion.

In the present conclusion, the assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of non-conformity and to the questions raised by the Committee in the previous conclusion.

**Scope**

In its previous conclusion (Conclusions 2019), the Committee considered that the scope of the right to family reunion was not in conformity with the Charter, since family members whose permits were dependent upon the stay of the migrant worker, and who had been in Türkiye for less than three years, had no independent right of residence and would lose all right to remain in Türkiye if the sponsoring migrant worker is expelled. The report confirms that the situation has not changed, and the three-year requirement is still valid.

The Human Rights Association submitted comments on this matter, stating that the length of time required for residence for independent right of residence is too long, and therefore incompatible with the Charter.

The Committee recalls that an independent right to stay must be granted to family members, save for legitimate intervention in cases of marriage of convenience or fraudulent abuse of immigration rules. While it is acceptable for the States to impose a minimum period of residence before such an independent right of residence is granted (Conclusions 2011, Netherlands Article 19§8), the imposition of a three-year time limit in this regard is disproportionate and cannot be justified under Article G of the Charter. The Committee thus reiterates that the situation is not in conformity with the Charter.

**Conditions governing family reunion**

In its previous conclusion (Conclusions 2019), the Committee took note that a ban on entry may be imposed on a foreigner who suffers from disease which is considered as a threat to public health, is defined as an infectious or infectious parasitic with the epidemic potential in the Health Regulation of the World Health Organisation, as well as mentioned in the General Hygiene Law of 1930. The Committee asked whether the Hygiene Law of 1930 broadens the scope of diseases considered a public threat, as defined by the WHO. It also repeated its request for information on how this requirement is applied in practice and who certifies the existence and seriousness of the illness and whether a review procedure is available. The Committee reserved its position on this point.

In reply, the report states that Article 57 of the General Hygiene Law (Fight Against Infectious and Epidemic Diseases in the Country), provides a list of diseases which are considered as a threat to public health: Cholera, plague (bubon or pneumonia form), typhus, typhoid fever (camp fever), the holders of microbes that produce bacillus, paratyphoid fever, smallpox,



diphtheria, brain fever (cerebrospinal meningitis), epidemic encephalitis, dysentery (bacilli and amoeba), puerperal fever, glanders, scarlet fever, anthrax, polio, measles, leprosy, febris recurrens, malta fever.

The report further explains that foreigners at risk of the diseases listed in Article 57 of General Hygiene Law are required to report on their latest health situation to the competent authority. However, the process may not necessarily lead to an automatic denial of residence permits. According to the report, in the process of imposing an entry ban for public security or health reasons, the opinion of the “security units” of the Ministry of Health are taken into consideration. The foreigner may request the review of such decision before the competent administrative court.

In its previous conclusions (Conclusions 2019), the Committee noted that the sponsor applying for a family reunion is required to have a monthly income not less than the minimum wage in total and corresponding to not less than one third of the minimum wage per dependent family member. The Committee found that the calculation of a sponsor’s means does not take into account any income based on entitlement to social benefits. The situation was, accordingly, not in conformity with the Charter.

The report indicates that the situation remains unchanged in this respect. Therefore, the Committee reiterates its conclusion of non-conformity.

#### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 19§6 of the Charter on the grounds that:

- The requirement that family members of a migrant worker reside in Türkiye for three years before acquiring an independent right of residence is excessive;
- Social benefits are excluded from the calculation of the income of a migrant worker who has applied for family reunion.

**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 Türkiye.

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 the Türkiye 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 Türkiye to be in conformity with the Charter, there was no examination of the situation in 2023.

*Conclusion*

The Committee concludes that the situation in Türkiye 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 Türkiye.

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 Türkiye was not in conformity with Article 19§8 of the Charter on the grounds that a migrant worker may be considered as a threat to public order and therefore expelled on the basis of a prosecution or conviction for any crime, and risk to public health in itself constitutes a ground for expulsion. In the present conclusion, the assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of non-conformity and to the questions raised by the Committee in the previous conclusion.

The report refers to the relevant provisions of Law No. 6458 on Foreigners and International Protection and states that foreigners may be deported to their country of origin or a transit country or a third country by virtue of a deportation decision issued either upon instructions of the Directorate General of Migration Management or ex-officio by the governorates.

The Committee takes note from the report that Article 54(1)a of Law No. 6458 provides a list of situations where a deportation decision is issued. According to Article 54(1)a, a deportation decision shall be issued in respect of those foreigners who are sentenced to imprisonment due to a crime they have committed (reference is made to Article 59 of the Criminal Code). In this case, according to Article 59 of the Criminal Code, the foreigner is immediately notified to the Ministry of Internal Affairs for an evaluation regarding deportation procedures. It follows from this provision that a criminal conviction to an imprisonment for any crime may lead to expulsion.

The above-mentioned Article 54(1)a also provides that foreigners can be a subject to deportation decision if – they are leaders, members, or supporters of a terrorist organisation or a profit-oriented criminal organisation; - if they submit untrue information and false documents during the entry, visa and residence permit actions; - if they made their living from illegitimate means during their stay in Türkiye; - if they pose a public order or public security or public health threat; - if they are determined to be working without a work permit; - are evaluated as being associated with terrorist organisations which have been defined by international institutions and organisations.

The Committee also notes from the report that Article 55 of Law No. 6458 bans any deportation decision against the foreigner - when there are serious indications to believe that they shall be subjected to the death penalty, torture, inhuman or degrading treatment or punishment in the country to which they shall be returned to; - who would face risk due to serious health conditions, age or, pregnancy in case of travel; - who would not be able to receive treatment in the country to which they shall be returned while undergoing treatment for a life-threatening health condition; - who are victims of human trafficking, supported by the victim’s assistance programme; - who are victims of serious psychological, physical or sexual violence, until their treatment is completed.

The Committee reiterates that the relevant domestic provisions in respect of deportation are extremely wide. First, under Article 54(1)a (1<sup>st</sup> paragraph), any criminal sentence of imprisonment, might lead to deportation of the foreigner, irrespective of whether the criminal offence in question presents a serious character or whether it constitutes a substantive threat to national security.

Secondly, the other grounds for deportation provided in Article 54(1)a (see §6 above) do not require a criminal conviction and it appears that even a simple prosecution on the basis of one of the grounds in Article 54(1)a can be considered as sufficient in order for the foreigner to be considered as a threat to public order or national security and being deported.

Moreover, the wording of Article 54 (“deportation decision is taken for the following foreigners:”) does not impose an obligation on the authorities to take into account all relevant aspects of the individual in their assessment, such as length of residence, family ties etc. This may lead to migrant workers being arbitrarily expelled and therefore cannot be considered as being in conformity with Article 19§8 of the Charter.

As regards expulsion on grounds of public health, the report states that notification about whether foreigners threaten public health are made by Provincial Health Directorates to the Presidency of Migration Management and/or Provincial Management of Migration Management, and deportation decisions are taken against the foreigners whose presence in Türkiye threatens public health. The Committee reiterates that risks to public health do not themselves offend public order and cannot constitute a ground for expulsion, unless the person concerned refuses to undergo suitable treatment. The situation is, accordingly, not in conformity with the Charter in this respect.

In response to the previous question raised by the Committee with regard to the deportation of stateless persons, the report explains that under Article 41 of Law No. 6458, persons holding a stateless person identity document are not deported as long as they do not pose a serious threat to public order or public security.

In response to the Committee’s request for statistical information concerning the application of the above-mentioned relevant information, the report provides information on the number of deportations carried out in 2020 -2022 (41,379 deportation in 2020, 46,845 in 2021 and 121,375 in 2022).

#### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with the Charter on the grounds that:

- a migrant worker may be considered as a threat to public order and therefore expelled on the basis of a criminal conviction (to a prison sentence) for any crime and prosecution on the basis of one of the grounds listed in Article 54(1)a of Law No. 6458.
- risk to public health constitutes a ground for expulsion.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 9 - Transfer of earnings and savings*

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

The Committee points out that no targeted questions were asked in relation to Article 19§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 the previous conclusion (Conclusions 2019), the Committee deferred its conclusions, pending receipt of the information requested. In the present conclusion, the assessment of the Committee will therefore concern the information provided by the Government in response to the previous question.

In the previous conclusion (Conclusions 2019), the Committee referred to its Statement of Interpretation on Article 19§9 (Conclusions 2011), affirming that the right to transfer earnings and savings includes the right to transfer movable property of migrant workers, and asked the next report to specify whether any restrictions apply for a transfer of movable property of migrant workers abroad from Türkiye.

The report states that according to the first paragraph of Article 3 of Law No. 6493 on Payment and Security Settlement Systems, Payment Services and Electronic Money Institutions, “the payment service user” is defined as a real or legal person who benefits from a certain payment service as a sender, receiver or both. This definition does not include any distinction between native or foreign users. As such, all provisions of the mentioned Law and related secondary regulations are applied in the same way to national and foreign users without any difference in treatment. In terms of Law No. 6493 and related secondary regulations, there are no provisions prohibiting the transfers of immigrants’ or any other party’s movables (fund-securities transfer) abroad, restricting or creating additional obligations for foreigners.

*Conclusion*

The Committee concludes that the situation in Türkiye is in conformity with Article 19§9 of the Charter.

**Article 19 - Right of migrant workers and their families to protection and assistance**  
*Paragraph 10 - Equal treatment for the self-employed*

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

On the basis of the information in the report the Committee notes that there continues to be no discrimination in law between migrant employees and self-employed migrants in respect of the rights guaranteed by Article 19.

However, in the case of Article 19§10, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.

The Committee has found the situation in Türkiye not to be in conformity with Articles 19§1, 19§4, 19§6, 19§8 and 19§12 of the Charter. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in Türkiye is not in conformity with Article 19§10 of the Charter.

*Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§1, 19§4, 19§6, 19§8 and 19§12 apply also to self-employed migrants.

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

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

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

In the previous conclusion (Conclusions 2019), the Committee deferred its conclusions pending receipt of the information requested. The assessment of the Committee in the present conclusion will therefore concern the information provided in response to its previous questions.

In the previous conclusion (Conclusions 2019), the Committee asked the next report to reply in detail to the following questions:- what special or extracurricular classes, or other forms of assistance, are provided to the children of migrant workers to enable them to learn the language and participate fully in their education (included in the curricula, or provided outside of regular schooling)?- what are the arrangements of courses available to adult migrants to assist their learning, in particular in the implementation of the 2016 Cooperation Agreement, and what the costs are associated with such classes? Whether teaching opportunities apply to all migrant workers?- whether financial assistance is available for those who cannot afford to pay; which groups of migrants must pay for the obligatory classes and who are entitled to free education?- what policies are in place to provide or support the education of all adult migrants and migrant workers’ children, not only those under international protection, in the national language?- what measures are taken to promote the teaching of the national language?

In reply, the report indicates that all foreign nationals in Türkiye benefit from education services . In this context, in order to increase the Turkish language skills of foreign students, integration classes that provide intensive Turkish education were created within the framework of Circular No. 2019/15 on Foreign Student Integration Classes. Foreign students with insufficient Turkish language skills at primary and secondary education levels were enrolled in the integration classes that started to be implemented in the 2019-2020 academic year. In order to increase their Turkish language skills, foreign students benefit from these courses for 6 hours a week outside of school hours. Within the scope of these efforts, Turkish language training was given to 552,000 foreign students in total during 2020-2021 academic year.

According to the report, developing the Turkish language skills of foreign students at an early age is one of the primary goals of the Ministry of National Education (hereinafter, “MoNE”). As of October 2022, 61,573 foreign students benefit from early childhood education in this context. The report also indicates that foreign nationals in Türkiye can also benefit from non-formal education services provided in public education centres. During the period between 2014 and 2022, a total of 2,530,611 foreign national trainees attended the courses held in public education centres. Education materials, classroom activities and books were prepared to increase the Turkish language skills of foreign students. These materials and books are distributed to students free of charge at the beginning of each academic year.

The report states that 120-hour “Turkish A1 Level Blended Model Course Program”, “Turkish A2 Level Blended Model Course Program” and “Turkish B1 Level Blended Model Course Program” are provided for foreign nationals who are literate in their native language and have completed the age of 14. Further, in 2018, foreign nationals under temporary protection who have been in Türkiye for a while and have learned Turkish at a certain level were also given the opportunity to benefit from all public courses, which are organised by public education

centres directly or in cooperation with other institutions and organisations. These courses are free of charge.

The report also provides information on “Accelerated Education Program” project carried out in cooperation with the MoNE and UNICEF. The aim of this project is to include in the education system Syrian students between the ages of 10-18 under temporary protection and who have been away from education for 3 to 6 years. Training programmes are provided outside the scope of formal education and approximately 30,000 children have been involved in the program so far. In addition, within the scope of the program, children were enrolled in “Turkish Level A1 for Foreigners” and “Turkish Level A2 for Foreigners” courses.

The report also provides that the “Language Learning Portal” was developed in Education Information Network of the MoNE to provide support for immigrants. Course and workbooks, questions, infographics, videos, audio files and interactive content for the learning of Turkish, English, Arabic, French and German languages are offered on this platform.

As to the financial assistance for those who cannot afford to pay, the report explains that educational services are provided free of charge in official institutions affiliated to the MoNE and all foreign nationals in Türkiye can benefit from these services. In addition, the “Conditional Education Assistance for Foreigners” Program is carried out in order to support the education of disadvantaged children of foreigners in Türkiye and to ensure their regular attendance at school. Payments are made every 2 months under this Program on the condition that participants attend school regularly. In addition, vocational and technical education scholarships are given to foreign students who attend vocational and technical high schools or vocational training centres.

As to the education of adult migrants, the report indicates that the 120-hour “Social Cohesion and Life Education Course Program” for foreigners who have the legal right to stay in Türkiye and who have completed the age of 17, was approved in September 2021 and entered into force. All courses that are open to the public directly or in cooperation with other institutions and organizations are organized free of charge by the public education centres.

The report also provides statistical information on Turkish language education within the scope of various projects:- Resilience Project in Türkiye in Response to the Syria Crisis (In cooperation with UNDP): 70,000 trainees attended Turkish Language training programmes and 54.000 trainees were certified.- Project for Increasing Access of Syrians Under Temporary Protection to Turkish Language Education and Vocational Training (In cooperation with UNHCR): 11,386 trainees participated Turkish Language courses as of November 2022.- Project for Supporting Economic Opportunities for Syrians Under Temporary Protection and Host Community: Promoting Employment (In cooperation with German International Cooperation): Turkish Language Training was provided to 804 Syrians Under Temporary Protection.

### *Conclusion*

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



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

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

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

In the previous conclusion (Conclusions 2019), pending receipt of the information requested, the Committee deferred its conclusions. The assessment of the Committee in the present conclusion will therefore concern the information provided in response to the previous questions.

In the previous conclusion (Conclusions 2019), the Committee took note that it is possible for foreign nationals to open international private education institutions for the education of children of foreign nationals in Türkiye for diplomatic, sportive, cultural or other reasons. In the previous conclusion, the Committee also noted from the reports of the European Commission against Racism and Intolerance that the 6th Democratisation Package has brought some progress for linguistic minority groups and private schools are now allowed to teach languages and dialects used by minority groups in their daily life. Still, however, the Committee considered that it did not possess sufficient information to assess whether the requirements of Article 19§12 are met.

Accordingly, the Committee requested in the previous conclusion that the next report provides information on:

- how many students receive education in their mother tongue through schools or cultural/voluntary organizations.
- what steps the government has taken to facilitate the access of migrants’ children to these schools.
- availability of mother tongue language classes for migrant worker’s children outside the school system
- whether any non-governmental organisations provide teaching of migrants’ languages, and whether they receive support.

In reply, the report states that according to the data available to the Directorate of Migration Management as of September 2022, there are a total of 1,172,067 Syrians of educational age (5-17 years old) under temporary protection in Türkiye. As of October 2022, 762,414 of them (65.05%) are enrolled in educational institutions. In order to support those students to learn their native language, Arabic is offered as an elective course. In addition, according to the report, children of migrant workers can take courses in many languages free of charge under non-formal education programmes.

However, the Committee considers that the information provided concerns only Syrian migrants under international protection and not all migrant children. The report does not address the specific issues as to the level of fees in the private foreign schools is and whether assistance is available to those without the means to pay, what steps the government has taken to facilitate the access of migrants’ children to these schools and whether any non-governmental organisations provide teaching of migrants’ languages, and whether they receive support.

In the light of the above, the Committee considers that it does not possess sufficient information to assess whether the requirements of Article 19§12 are met. It therefore concludes that the situation is not in conformity with Article 19§12 due to the failure to provide information on availability of mother tongue language classes for migrant worker’s children

outside the school system and on whether any non-governmental organisations provide teaching of migrants' languages, and whether they receive support. It considers that this failure to provide information amounts to a breach by Türkiye of its reporting obligations under Article C of the Charter.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 19§12 of the Charter due to the failure to provide the information listed below. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter. List of questions/Information missing:

- availability of mother tongue language classes for migrant worker's children outside the school system;
- whether any non-governmental organisations provide teaching of migrants' languages, and whether they receive support.

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

### *Paragraph 1 - Participation in working life*

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

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

In its previous conclusion, the Committee found that the situation in Türkiye was in conformity with Article 27§1 of the Charter, pending receipt of the information requested, i.e. updated information on any placement, advice, or training programmes for workers with family responsibilities and if there are any other than previously reported work conditions available to employees that may facilitate the reconciliation of working and private life, for example telework (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the questions raised in its previous conclusion.

### ***Employment, vocational guidance and training***

The Committee previously asked (Conclusions 2019) for updated information on any placement, advice, or training programmes for workers with family responsibilities. In particular, it asked whether the “Priority transformation programmes” described in the previous report include special measures for workers with family responsibilities.

In reply, the report clarified that special measures for workers with family responsibilities were included in the 10th Development Plan (2014-2018). In its framework, 25 special implementation programs were created under the name of “Priority transformation programmes” which included actions taken by 35 ministries and institutions. Among the action plans undertaken were the “Activation of the Labour Market program action plan” and “Action plan of the program for the protection of the family and the dynamic population structure”. The first action plan included measures on increasing women’s labour force participation and employment, expanding childcare services, and the quality, affordability, and accessibility of kindergarten and pre-school education. The second action plan aimed at the extension of maternity and paternity leave and other related rights granted to civil servants to private sector employees.

In addition, the report referred to several targets of the 11th Development Plan (2019-2023) that aim at reconciliation of work and private life for workers with family responsibilities, with emphasis given to empowering women (and disabled persons) to meet labour market demands, to further expansion of child-care services, to strengthening of women’s opportunities for vocational training and skills development (especially related to technology, such as coding and software), and to consultancy and guidance for female entrepreneurs, especially in the framework of the “Women’s entrepreneurship program”.

The Committee refers to its conclusion under Article 10§3 of the Charter (Conclusions 2020) where it noted that the number of women participating in vocational training is significantly lower than that of men and asked for information on the measures taken to increase the participation of women in such courses. It also noted that the rate of unemployed person participation in vocational training courses as a proportion of the total number of unemployed was very low and asked what measures are planned to increase their participation in training and re-training programmes.

According to the report, the National Employment Strategy (2014-2023) includes specific action plans aiming at increasing the participation of women in the labour market. The

vocational training courses and on-the-job training programs are designed to consider the diversity of the target group. To women, individual consultancy services are also provided. In 2022, 10 763 women participated in vocational training courses. In addition, for women who temporarily stay at women's shelters, job and vocational counselling services are provided to develop their job-seeking skills, find employment, improve professional skills, change their profession, eliminate professional adaptation problems, and direct them to vocational training programs.

The report also mentions the possibility of persons with family responsibilities to attend the Open Educational Schools and complete their education at any age and the Vocational and Technical Open Education School which provides an opportunity for those who have a profession but cannot certify it to obtain a diploma.

### ***Conditions of employment, social security***

The Committee previously noted (Conclusions 2019) that workers with family responsibilities (public and private sectors) may work part-time until the child reaches compulsory school age and asked if there are any other work conditions available to employees that may facilitate the reconciliation of working and private life, for example telework.

According to the report, the possibility of remote work is given under Article 14 of Labour Law No. 4857 titled "Working on call and remote working", remote working was introduced in 2016 and applied part-time or full-time in certain sectors as a flexible type of work. After the Covid-19 pandemic outbreak, the principles of remote working were further clarified by the "Regulation on remote work" from 2021 in order to increase the percentage of employees working remotely and to better balance work and family life during the pandemic. Workers with family responsibilities, in both private and public sectors, may work part-time, telework or remote work until the child reaches compulsory school age.

### ***Child day care services and other childcare arrangements***

The Committee notes the action plan, referred to in the report, to expand childcare services.

The Committee recalls that, as Turkey has accepted Article 16 of the Charter, measures taken to develop and promote child daycare structures are examined under that provision.

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

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

In reply, the report states that the Covid-19 pandemic had negative effects on the labour market. To preserve workplaces and ensure the sustainability of production, remote working was applied. Employers were given incentives to offer jobs to disadvantaged groups such as women, youth, and disabled persons. Efforts were made to provide distance vocational training. According to the report, the right to equal opportunity and treatment of employees with family responsibilities, especially as regards the possibilities and consequences of remote working, was also guaranteed.

### ***Conclusion***

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

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

### *Paragraph 2 - Parental leave*

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

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

In its previous conclusion, the Committee considered that the situation in Türkiye was not in conformity with Article 27§2 of the Charter on the grounds that fathers, other than civil servants, do not have the right to parental leave and no compensation or remuneration is paid for parental leave (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity.

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

The Committee previously considered (Conclusions 2019 and 2015) that the situation was not in conformity with Article 27§2 of the Charter on the grounds that fathers, other than civil servants, do not have the right to parental leave.

In reply, the report provides an overview of the legislation, as amended in 2016. More precisely, under Article 74 of Labour Law No. 4857, mothers have the right to work part-time after maternity leave. Following Regulation No. 29882 on “part-time working after the completion of maternity leave or unpaid leave”, both male and female workers have the right to weekly half-time working hours. Law No. 6662, which amended the Income Tax Law, extended the right to work part-time to all parents in the public and private sector until the child reaches the age of compulsory primary education.

The report also clarifies that female workers may request part-time work at any time after the end of their maternity or unpaid leave, and that both male and female workers may request it in the case of the adoption of a child under three until the start of their child’s compulsory education.

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

The Committee considers that the leave provided in Türkiye does not meet the requirements of parental leave as required under the Charter, on the ground that it is not guaranteed to each parent as an individual right, part of which is provided on a non-transferable basis.

### ***Remuneration***

The Committee previously considered (Conclusions 2019 and 2015) that the situation was not in conformity with Article 27§2 of the Charter on the ground that no compensation or remuneration is paid for parental leave.

The report further states that following Article 5 of the Unemployment Insurance Law No. 4447, the mother who is entitled to use unpaid leave for half of the weekly working period after the

completion of maternity leave may also be entitled to the part-time allowance paid by Unemployment Insurance Fund if certain conditions are fulfilled.

The Committee recalls that the remuneration of parental leave plays a vital role in the take up of childcare leave, in particular for fathers or lone parents (Conclusions 2011, Armenia) and that unpaid parental leave is not in conformity with Article 27§2 (Conclusions 2019, Ireland, Malta).

The Committee considers that the situation in Türkiye is not in conformity with Article 27§2 of the Charter on the ground that the remuneration during parental leave is not guaranteed to each parent and does not replace the income lost due to the absence from work to take care of a child.

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

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

In reply, the report states that during the pandemic, in the public sector flexible working methods such as distance and rotational working were applied. Employees over the age of 60, pregnant or who belong to categories of higher health risk were put on administrative leave, during which they reserved their financial and social rights and benefits. Working mothers of children under the age of 10 were working from home.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 27§2 of the Charter on the grounds that:

- The right to parental leave is not established as an individual right of each parent, a part of which is non-transferable.
- The remuneration during the parental leave is not adequate on the grounds that it is not guaranteed to each parent and does not replace the income lost due to the absence from work to take care of a child.

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

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

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

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

3. In its previous conclusion, the Committee considered that the situation in Türkiye was not in conformity with Article 27§3 of the Charter on the grounds that workers in companies with fewer than 30 employees are not protected against dismissal based on family responsibilities and that it has not been established that adequate compensation is provided for in cases of unlawful dismissal based on family responsibilities (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity.

### ***Protection against dismissal***

The Committee previously considered (Conclusions 2019 and 2015) that the situation in Türkiye was not in conformity with Article 27§3 of the Charter on the ground that workers in companies with fewer than 30 employees are not protected against dismissal based on family responsibilities.

In its reply, the report states that under Article 18 para. 3 (d) of the Labour Law, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, or social origin may not constitute grounds for dismissal. The job security system (Articles 5, 14, 17, 18, 19, 20 and 21 of the Labour Law) protects workers with at least six months of service and an indefinite-term labour contract in a workplace employing at least thirty workers. The report also states that the dismissals of workers working in a workplace employing fewer than thirty workers (and thus not covered by the job security system), on various grounds including family responsibilities, are regarded as an abusive exercise of the right to dismiss, both in doctrine and in the case law of the Court of Appeal. In the case of such dismissal, the employers are liable to pay several types of compensation: redundancy payment based on the notice period in line with Article 17 para. 4 of Labour Law, compensation for unfair dismissal in accordance with Article 17 para. 6, equal treatment compensation of up to four months' salary according to Article 5 para. 4 of the Labour Law, and pecuniary and non-pecuniary compensation subject to certain conditions.

The Committee notes that the report does not provide any evidence, such as examples of the relevant case-law of the Court of Appeal, that would demonstrate that the workers in workplaces employing fewer than thirty workers are indeed effectively protected against dismissal on the ground of family responsibilities. It therefore considers that the legislation does not provide sufficient guarantees of protection against the dismissal for workers with family responsibilities in workplaces employing fewer than thirty workers.

### ***Effective remedies***

The Committee previously considered (Conclusions 2019) that the situation in Türkiye was not in conformity with Article 27§3 of the Charter on the ground that it has not been established that adequate compensation is provided for in cases of unlawful dismissal based on family responsibilities. More precisely, in Conclusion 2017 the Committee asked for the next report to provide examples of case-law demonstrating that it is effectively possible for an employee

dismissed on the ground of family responsibilities to be compensated for non-pecuniary damage, without reference to the ceiling provided under the Labour Law. However, the previous report did not provide such examples.

In its reply, as an example of relevant case-law, the report mentions the decision of the 9<sup>th</sup> Civil Chamber No. 2015/13409 from 2017, in which the Supreme Court considered discrimination against a pregnant worker to be a violation of Law No. 6701, which prohibits discrimination based on gender, race, ethnicity, religion, wealth, health status, age, etc. The court ruled that the compensation for this violation should be set at the upper limit due to the severity of the situation. Law No. 6701 also ensures that the compensation for non-pecuniary damages does not impoverish the party responsible for compensation or unjustly enriches the claimant. The report also states that, in legal practice, there is no established method for calculating non-pecuniary damages, but that compensation is determined by evaluating various criteria, such as the merits of the individual situation, the financial status of the parties involved, the severity of the parties' fault in the incident, the level of moral damage incurred, and the purchasing power of money at the time of the event. These criteria for determining non-pecuniary compensation are outlined in Article 47 of the Code of Obligations. In contrast to non-pecuniary damages, pecuniary compensation is determined by mathematical calculations and is of a more technical nature.

The Committee notes that there is an upper limit or a ceiling on the compensation for non-pecuniary damages. It also considers that the report does not demonstrate that there are no limits set for non-pecuniary damages for workers unlawfully dismissed on ground of family responsibilities.

The Committee recalls that courts or other competent bodies should be able to order reinstatement of an employee unlawfully dismissed (Conclusions 2007 Finland) and/or to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim (Conclusions 2005, Estonia). Also, any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed (Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3). If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time (Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3, see also *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 158/2017, decision on the merits of 11 September 2019, §96).

The Committee considers that the situation in Türkiye is not in conformity with Article 27§3 of the Charter, on the ground that the victim of an unlawful dismissal is not able to seek unlimited compensation for non-pecuniary damages.

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

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

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

The report states that following the adoption of the Law on reducing the effects of the Coronavirus (Covid-19) pandemic on economic and social life and amending certain laws in 2020, a provisional Article 10 was added to the Labour Law No. 4857. This article imposed a temporary three-month restriction on the termination of labour agreements by employers (except under special circumstances such as expiry of the contract, termination of the activity



or closure of the workplace, dishonourable or malicious conduct), which was extended with the Presidential Decisions from 17th of April 2020 to 30th of June 2021. During that period, the employer may have put the employee on unpaid leave, for a period not exceeding three months, but did not have the right to terminate the contract. The provision was applied to all employees, regardless of whether or not they were subject to Labour Law No. 4857. To ensure the effective implementation of the measure, an administrative fine was foreseen for the employers and the employer representatives who terminated employment contracts in violation of the law.

#### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 27§3 of the Charter on the grounds that

- workers with family responsibilities are not adequately protected against dismissal in companies with fewer than 30 workers and
- in cases of unlawful dismissal of workers on the ground of family responsibilities the victim is not able to seek unlimited compensation for non-pecuniary damages.

## **Article 31 - Right to housing**

### *Paragraph 1 - Adequate housing*

The Committee takes note of the information contained in the report submitted by Türkiye, as well as the comments from the Human Rights Association (*İHD*), the Association for Monitoring Equal Rights (*ESHID*), and the Partnership Network for Prevention of Violence against Children (*"the Partnership Network"*).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 31§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").

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§1 of the Charter on the grounds that:

- it has not been established that there are rules imposing obligations on landlords to ensure that the dwellings that they let are of an adequate standard;
- measures taken to improve the substandard housing conditions of Roma and internally displaced persons are insufficient (Conclusions 2019).

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

### **Criteria for adequate housing**

In its previous conclusion, the Committee reiterated its request for information as to whether housing adequacy criteria similar to those applicable to new constructions also applied to the existing housing stock (Conclusions 2019, as well as 2011 and 2017). The Committee also asked for up-to-date statistics or figures related to the adequacy of housing (including on the living space of dwellings/overcrowding) (Conclusions 2019).

In a targeted question, the Committee asked for updated information on the adequacy of housing (e.g., number of substandard dwellings, overcrowding, water, heating, sanitary facilities, electricity), on the percentage of the population living in inadequate housing, including overcrowded housing, and on the practical measures taken to improve the situation.

The report provides selected findings from a nationwide housing survey published in 2021, as follows:

- The average number of rooms per occupant, excluding kitchen, bath and toilet, is 1.1;
- The share of households connected to a water supply system is 99.4%;
- The share of households with a toilet inside the dwelling is 96.6%;
- The share of households with a bathroom inside the dwelling is 98.8%.

The report does not otherwise provide any information on the percentage of population living in overcrowded housing. Furthermore, the report does not bring any clarification as to whether housing adequacy criteria similar to those applicable to new constructions also apply to the existing housing stock.

Due to the failure to provide requested information on the percentage of population living in overcrowded housing and on whether housing adequacy criteria similar to those applicable to new constructions also apply to the existing housing stock, the Committee concludes that the situation in Türkiye is not in conformity with Article 31§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

The report notes that the amount of home repair and home construction grants provided for low-income families was increased. For example, the home repair grant was increased from

25,000 to 40,000 Turkish lira (TRY). The report provides information on the number of households having benefited from home repair or home construction grants, namely 23,105 in 2018, 22,413 in 2019, 23,498 in 2020, and 30,363 in 2021, and the total amounts provided, ranging from TRY 39.17 million in 2018 to TRY 119.6 million in 2021.

### ***Responsibility for adequate housing***

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§1 of the Charter on the ground that it had not been established that there were rules imposing obligations on landlords to ensure that the dwellings that they let were of an adequate standard (Conclusions 2019). The Committee also asked for clarification as to how the adequacy of the existing housing stock (whether rented or not, privately, or publicly owned) was checked, whether regular inspections were carried out and what follow-up was given to decisions finding that a dwelling does not comply with the relevant regulations (Conclusions 2019, as well as 2011, 2015 and 2017).

The report provides a list of provisions from the Code of Obligations, which outline standard landlord maintenance obligations with respect to rental properties. The report also provides a list of regulations on the procedures in place for ensuring that new buildings are compliant with building regulations.

The report notes that the implementing regulations for the Law no. 6306/2012 on the Transformation of Areas under Disaster Risk were adopted in 2019. These regulations have detailed provisions regarding matters such as the determination, transformation, and/or demolition of buildings and areas at risk, or the assistance provided to the owners of the real estate concerned. However, the report does not provide any information as to the implementation of these regulations, which takes new urgency in view of the widespread loss of life and destruction caused by the earthquakes that took place in southern and central Türkiye in February 2023. The Committee notes that the report does not otherwise provide any information on the measures taken to ensure the adequacy of existing housing stock.

In its comments, the *IHD* asserts that since Law no. 6306 had been adopted in 2012, only 213 areas and 896,350 individual dwellings were identified as buildings at risk, even while approximately 10 million dwellings may potentially qualify as such. The *IHD* further notes that a zoning amnesty introduced by an amendment to the Zoning Law no. 3194 adopted in 2018, resulted in the widespread legalisation on a retroactive basis of buildings erected before 31 December 2017 without a permit altogether or at variance with relevant permits and plans. The *IHD* notes that approximately 7.4 million potentially unlawful structures received building registration certificates, including 290,929 structures in the area affected by the earthquake alone. In turn, the Partnership Network attributed the widespread destruction in the wake of the 2023 earthquake to the poor implementation of construction and building codes, along with the mismanagement of tax revenues earmarked for earthquake proofing.

The Committee recalls in this context that it is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords (Conclusions 2003, France). Furthermore, States Parties are expected to demonstrate how the adequacy of the existing housing stock (whether rented or not, privately or publicly owned) is checked, whether regular inspections are carried out and what follow-up is given to decisions finding that a dwelling does not comply with the relevant regulation (Conclusions 2019, Türkiye, Ukraine).

The Committee considers that zoning amnesties of the type described above, leading to the widespread and indiscriminate legalisation of structures built in breach of existing building standards, are manifestly in violation of the obligations set out in Article 31§1 of the Charter. Also taking into account the findings outlined above, the Committee concludes that the situation in Türkiye is not in conformity with Article 31§1 of the Charter on the ground that the

measures taken to ensure that the existing housing stock is of an adequate standard are insufficient.

### ***Legal protection***

In its previous conclusion, the Committee asked for information on the existence of any other judicial or non-judicial remedies concerning the right to adequate housing available to tenants or occupiers, including on the affordability and effectiveness of those remedies and on the existing case-law, and reserved its position on its point (Conclusions 2019). In response, the report lists some of the provisions in the Code of Obligations regarding the alteration and/or termination of a tenancy contract by tenants as well as landlords, without providing any examples proving the accessibility and effectiveness of those remedies for securing the adequacy of housing in practice, for tenants, but also for occupiers.

### ***Measures in favour of vulnerable groups***

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§1 of the Charter on the ground that measures taken to improve the substandard housing conditions of Roma and internally displaced persons (IDPs) were insufficient (Conclusions 2019).

In a targeted question, the Committee asked for information on the measures taken to ensure adequate housing for vulnerable groups, including refugees, asylum seekers, Roma and Travellers, in particular during the Covid-19 crisis.

As to the situation of Roma, the report provides information about measures adopted within the framework of the National Strategy Document for Social Integration of Roma Citizens (2016-2021), which has housing as one of its five main policy focus areas. According to the report, research on housing needs in areas with a high Roma presence had been completed. The report also provides various other information, which, however, concerns measures taken outside the reference period, at an unspecified time, or that is too general in scope, without any evidence of tangible improvement for the group concerned.

The *ESHID*, in its comments, offers some information regarding the situation of Roma households affected by the urban transformation projects implemented by the Housing Development Administration of Türkiye (TOKİ). These projects often resulted in the expulsion of Roma families who previously used to live in slum-like conditions. Although some Roma families were offered to purchase new housing created within the framework of such urban transformation projects, that was often unaffordable in the long-term. For example, *ESHID* notes that some Roma families in Bursa who were sold TOKİ housing could not pay their electricity bills during the pandemic and were left without electricity for days. *ESHID* further asserts that Roma representatives were not involved in the planning process of urban regeneration projects and that TOKİ projects were not culturally appropriate for Roma families.

As to the situation of those who had been internally displaced as a result of the conflict in the east and southeast of the country, the report provides limited information about two projects (the Return to Village and Rehabilitation Programme and the Project on Economic and Social Integration of Displaced Persons in Van) which had mostly been implemented before the reference period, and without providing any quantitative data on the current status of those concerned. In its comments, the *IHD* asserts that the above-mentioned "Return to Village" project has not been successful in creating the necessary conditions for the return of IDPs to their villages due to military operations taking place intermittently during the reference period, which resulted in further displacement and disruption to the living conditions of those concerned.

In view of the above, the Committee reiterates its previous conclusion of non-conformity.

The Committee previously asked for information on measures taken to ensure adequate housing for refugees, particularly those living outside camps and temporary protection centres

(Conclusions 2019). The report notes that, as of 31 December 2021, there were 3,737,369 Syrian citizens under temporary protection in Türkiye. As of the same date, 51,471 of those refugees were accommodated in a network of shelters built along the southern border, where they are provided with services such as food, healthcare, security, social activity, education, worship, translation, communication and banking. According to the report, 88.1% of the refugees living in shelters stated that they were satisfied with the level of provision offered to them. The rest of 3,685,328 refugees lived in cities.

The report provides information about two projects implemented during the reference period in partnership with the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration, on “supporting the Removal Centres’ capacity and fostering alternatives to administrative detention” and “supporting the Presidency of Migration Management in the management, reception and housing of irregular migrants”. The report further notes that, during the Covid-19 crisis, cash assistance was provided to foreigners under international protection and temporary protection within the framework of a project implemented in partnership with UNHCR.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 31§1 of the Charter on the grounds that:

- the measures taken to ensure that the existing housing stock is of an adequate standard are insufficient;
- the measures taken to improve the substandard housing conditions of Roma and internally displaced persons are insufficient.

Due to the failure to provide the information mentioned, the Committee concludes that the situation in Türkiye is not in conformity with Article 31§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- the percentage of population living in overcrowded housing;
- whether housing adequacy criteria similar to those applicable to new constructions also apply to the existing housing stock.

## **Article 31 - Right to housing**

### *Paragraph 2 - Reduction of homelessness*

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

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 31§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”).

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§2 of the Charter on the grounds that:

- the measures to reduce and prevent homelessness were insufficient;
- the legal protection for persons threatened by eviction was insufficient;
- the right to shelter was not adequately guaranteed (Conclusions 2019).

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

### ***Preventing homelessness***

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§2 of the Charter on the ground that the measures to reduce and prevent homelessness were insufficient (Conclusions 2019).

In a targeted question, the Committee asked for information on the measures taken to prevent categories of vulnerable people from becoming homeless and to reduce the number of persons in a situation of homelessness, in particular during the Covid-19 crisis. The Committee also asked for information on the overall number/rate of homeless persons.

The report provides information about a range of measures taken to assist low-income households during the Covid-19 crisis, including a series of one-off payments of between 1,000 and 1,100 Turkish lira (TRY), increased grants for home repair and/or construction (for example the grant for home repairs went up from TRY 25,000 to TRY 40,000) and improved conditions for home loans. The number of households having benefited from home repair and/or construction grants was of 23,105 in 2018, 22,413 in 2019, 23,498 in 2020, and 30,363 in 2021, while the total amounts provided ranged from TRY 39.17 million in 2018 to TRY 119.6 million in 2021.

The report also notes that, in 2020, an unspecified number of persons in a situation of homelessness were offered temporary accommodation, within the scope of a project implemented by the Ministry of Family, Labour and Social Services. They were also provided with medical examinations, food, or clothing, among other types of assistance. Furthermore, an amendment to the Municipality Law no. 5393 required local authorities to provide women and children with shelter during the Covid-19 crisis. As of May 2020, 200 women and children were accommodated in 45 facilities under this scheme.

The report notes that the Istanbul Metropolitan Municipality provided shelter to 3,384 homeless persons and orphans without homes during the winter of 2019/2020 and to 206 homeless persons during the winter of 2020/2021. The Ankara Metropolitan Municipality operates a shelter with the capacity of 80 beds, covering emergency and basic needs of homeless people. Furthermore, 11,885 households received housing benefits during the period from January 2020 to November 2022.

The Committee notes that the report does not provide information on the number of homeless persons in the country. In this context, the Committee refers to the findings of a European Commission study on the problem of homelessness in Türkiye (European Social Policy

Network "Thematic Report on national strategies to fight homelessness and housing exclusion – Turkey", 2019), as follows:

- homelessness is not defined in official documents, while statistics on homelessness are also lacking.
- there are no strategies to tackle homelessness and housing exclusion, with the exception of policies that address orphans without a home and women who are victims of domestic abuse.
- the only policy initiative for those living on the streets is the temporary shelters that municipalities provide when weather conditions are severe.
- in the previous decade, governments have been running social housing projects to enable low-income households to own their homes, but these are mostly beyond the means of homeless individuals.

In view of the above, the Committee reiterates its previous conclusion of non-conformity.

### ***Forced eviction***

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§2 of the Charter on the ground that it had not been established that evictions were carried out under conditions which respect the dignity of the persons concerned, and that a prohibition to carry out evictions at night or during winter was in place (Conclusions 2019). The Committee asked additional questions regarding the legal protection afforded to persons threatened by evictions.

The report notes that, pursuant to Article 51§1 of the Code of Enforcement and Bankruptcy No. 2004, evictions cannot be carried out at night, which is defined as the period from one hour after sunset until one hour before sunset, or during holidays. Evictions are otherwise permitted at all times, including during winter.

The report also notes that the public officials involved in carrying out eviction orders must conduct themselves in accordance with the "Regulation on the Principles of Ethical Behaviour of the Public Officials and Application Procedure and Essentials" published in the Official Gazette No. 25,785 of 13 April 2006, although it does not offer any detail regarding the contents of those Regulations or explain their relevance from the standpoint of Article 31§2 of the Charter.

In its previous conclusion, the Committee asked whether there was a specific notice period before the eviction of tenants who resided in a building subject to demolition under Article 5 of Law No. 6306 (Law on the Transformation of Areas under Disaster Risk), or whether these tenants could be evicted at any time during the notice period assigned to the owner/landlord (Conclusions 2019). The report notes that owners/landlords whose buildings are subject to a demolition order under the procedure concerned should serve eviction notices to the tenants affected, but does not clarify what the notice period is, if any.

In its previous conclusion, the Committee asked whether owners and tenants affected by urban transformation projects had access to affordable remedies and to legal aid (Conclusions 2019). The report confirms that both the owners as well as the tenants concerned have access to legal aid and lists the relevant legislative provisions in that respect. Furthermore, owners or tenants having suffered damages as a result of eviction proceedings carried out in the context of urban transformation projects have the right to ask for compensation pursuant to Article 125 of the Constitution.

The Committee notes the absence of a ban on evictions in wintertime and the lack of information on the length of the notice period applying in the case of tenants due to be evicted from buildings subject to demolition orders under Law no. 6306. Therefore, the Committee reiterates its previous conclusion of non-conformity.

In a targeted question, the Committee asked if the State Party declared a moratorium/prohibition on evictions during the pandemic, about its legal basis, its scope, or,

alternatively, if any other measures were taken to limit the risk of evictions, including by supporting households who are unable to pay their bills. The Committee also asked for information on the number of evictions carried out (tenant evictions, evictions from illegal camps or shanty towns, including those affecting camps where Roma or Travellers are installed).

The report notes that an omnibus law adopted in 2020 included a legal moratorium on evictions for rent arrears that applied for four months between 1 March and 30 June 2020. The report also provides information about various legislative measures authorising local authorities to subsidise water, gas and electricity bills, fuel expenses or rent for low-income families, provide one-off cash benefits for basic needs, postponing payment of public utility bills, or ban disconnections from the water service.

### ***Right to shelter***

In its previous conclusion, the Committee concluded that the situation in Türkiye was not in conformity with Article 31§2 of the Charter on the ground that it had not been established that the right to shelter was guaranteed (Conclusions 2019). In doing so, the Committee noted the persistent failure to provide information in relation to key aspects of this provision, including as to whether homeless persons who were not entitled to temporary protection status had access to shelter/emergency accommodation, whether those shelters/emergency accommodations satisfied security requirements and health and hygiene standards, and whether the law prohibited eviction from shelters/emergency accommodation (Conclusions 2019, as well as 2015 and 2017).

In a targeted question, the Committee asked for information on the availability and adequacy of emergency accommodation offered during the Covid-19 crisis. The Committee also asked for information on the right to shelter of unaccompanied foreign minors, including those irregularly present, in law and practice.

The report notes that unaccompanied foreign minors and those rendered homeless as a result of natural disasters are entitled to shelter/temporary accommodation and that municipalities may provide temporary shelter during severe weather conditions. The report also provides information on programs to develop additional temporary accommodation for students and seasonal agricultural workers. As the report does not otherwise provide the information requested, the Committee reiterates its previous conclusion of non-conformity.

### *Conclusion*

The Committee concludes that the situation in Türkiye is not in conformity with Article 31§2 of the Charter on the grounds that:

- the measures to reduce and prevent homelessness are insufficient;
- the legal protection for persons threatened by eviction is insufficient;
- the right to shelter is not adequately guaranteed.



**Article 31 - Right to housing**  
*Paragraph 3 - Affordable housing*

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

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 31§3 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 deferred its conclusion pending receipt of the information requested (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in response to the questions raised in its previous conclusion and to the targeted questions.

***Social housing***

In a targeted question, the Committee asked for information on the measures taken to ensure an adequate supply of affordable housing, including with respect to the number of applications for social housing, the average waiting time for the attribution of social housing, the remedies available, and addressing the specific situation of Roma and Travellers. The Committee also asked for information as to whether and to what extent the Covid-19 crisis had an impact on adequate supply of affordable housing for persons with limited resources.

In its previous conclusion, the Committee asked for any existing case-law showing that the actions and procedures of the Housing Development Administration of Türkiye (TOKI) could be challenged in the courts (Conclusions 2019). The Committee also asked for data on the demand for social houses constructed by TOKI, on the number of the beneficiaries who were granted such houses, and on the average waiting time for social housing. The Committee also noted the persistent failure to provide information on the remedies available for challenging excessive waiting times (Conclusions 2015, 2017, 2019).

The report notes that the Ministry of Family and Social Services implemented a project to build subsidised housing for low-income individuals within the framework of the Law on Social Assistance and Solidarity No. 3294. According to the report, a total of 710 housing units had been completed by 2018 under this scheme.

The report notes that social housing is allocated based on a points system, taking into account criteria such as belonging to a vulnerable group, length of time already spent in social housing, time spent on waiting list, marital status, number of children, number of dependent family members other than spouse and children, annual income or the place of residence, and/or by a draw.

The report provides information about remedies involving compensation for breach of contract in case of time overruns by housing developers. According to the report, 12 rent compensation lawsuits were concluded against and 51 in favour of TOKI during the reporting period.

With regard to the situation of Roma, the report provides information about measures adopted within the framework of the implementation of the National Strategy Document for Social Integration of Roma Citizens (2016-2021), with housing being one of its five main policy focus areas. The only relevant activity mentioned as completed refers to conducting studies regarding housing needs in areas with a high Roma presence. The report also notes that Roma have access to generally available social housing and housing assistance programs and that awareness raising activities have been conducted in Roma communities regarding those programs.

The report contains a general presentation of the TOKI portfolio, which has a significant social housing component (also see Conclusions 2019). The report notes that the waiting time for TOKI social housing projects varies between 14 and 30 months.

The report does not otherwise provide precise information on the measures taken to ensure an adequate supply of affordable housing during the reference period or on the remedies available for challenging excessive waiting times.

The Committee notes from other sources that the social housing provided by TOKI is unaffordable for homeless people, who usually lack a steady income, or even for households with a very low income, regardless of how much they might be subsidised (European Social Policy Network, "Thematic Report on national strategies to fight homelessness and housing exclusion – Turkey", 2019). The same source notes that the supply of social housing falls short of demand. As of 2017, there were more than 600,000 applications for the latest batch of 50,000 subsidised units to be built in the upcoming three years.

Due to the failure to provide requested information on the measures taken to ensure an adequate supply of affordable housing during the reference period and the remedies available for challenging excessive waiting times, the Committee concludes that the situation in Türkiye is not in conformity with Article 31§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

In its previous conclusion, the Committee asked for clarifications as to whether nationals of other States Parties lawfully residing or working regularly in Türkiye could apply for access to social housing projects by TOKI and, if not, whether other forms of housing support or housing benefits were available to them (Conclusions 2019, as well as 2011 and 2015). In this respect, the Committee recalls that nationals of other States Parties to the Charter and to the 1961 Charter lawfully residing or working regularly are entitled to equal treatment regarding eligibility for non-profit housing (Conclusions 2011, Slovenia). In this connection, it recalls that the right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.

In response, the report specifies that only Turkish citizens are eligible to apply for social housing projects offered by TOKI. The Committee, therefore, considers that the situation is not in conformity with Article 31§3 of the Charter as nationals of other Parties to the Charter and to the 1961 Charter lawfully residing or regularly working in Türkiye are not entitled to equal treatment regarding eligibility for social housing.

### ***Housing benefits***

In a targeted question, the Committee asked for information on housing benefits, whether in the framework of the housing benefit system or in the framework of social assistance.

The report provides information about a range of measures taken to assist low-income households during the Covid-19 crisis, including a series of one-off payments of between 1,000 and 1,100 Turkish lira (TRY), increased grants for home repair and/or construction (for example the grant for home repairs went up from TRY 25,000 to TRY 40,000) and improved conditions for home loans. The number of households having benefited from home repair and/or construction grants was of 23,105 in 2018, 22,413 in 2019, 23,498 in 2020, and 30,363 in 2021, while the total amounts provided ranged from TRY 39.17 million in 2018 to TRY 119.6 million in 2021. The report further notes that pursuant to the Presidential Decision no. 4920 of 16 December 2021, local authorities were authorised to provide low-income families with subsidies for paying their water bills.

### ***Conclusion***

The Committee concludes that the situation in Türkiye is not in conformity with Article 31§3 of the Charter as nationals of other Parties to the Charter and to the 1961 Charter lawfully

residing or regularly working in Türkiye are not entitled to equal treatment regarding eligibility for social housing.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Türkiye is not conformity with Article 31§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Türkiye of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- the measures taken to ensure an adequate supply of affordable housing during the reference period;
- the remedies available for challenging excessive waiting times.