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European Social Charter (REVISED)

European Committee of Social Rights

Conclusions 2023

UKRAINE

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 Ukraine, which ratified the Revised European Social Charter on 21 December 2006. The deadline for submitting the 14th report was 31 December 2022. Ukraine submitted it on 1 March 2023.

The Committee recalls that Ukraine 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 Secretariat of the Ukrainian Parliament Commissioner for Human Rights on the 14th report were registered on 30 June 2023.

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

The conclusions relating to Ukraine concern 23 situations and are as follows:

– 5 conclusions of conformity: Articles 7§4, 8§2, 8§3, 27§1, 27§3.

– 18 conclusions of non-conformity: 7§§1-3, 7§§5-10, 8§1, 8§4, 8§5, 16, 17§§1-2, 27§2, 31§1, 31§2.

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

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

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

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 Ukraine was not in conformity with Article 7§1 of the Charter on the following grounds:

- the definition of light work is not sufficiently precise;
- the prohibition of employment of children under the age of 15 is not guaranteed in practice.

As regards the first ground of non-conformity, in its previous conclusion (Conclusions 2019), the Committee noted that Article 299§5 “conditions for the use of child labour” of Ukraine’s draft Labour Code provided for the prohibition of the use of child labour in types of employment where they could be subjected to threats of physical, psychological or sexual violence, or where the performance of the work could harm their health and have negative consequences on their moral development. However, the amendments to the Labour Code had not yet been adopted and the Committee therefore asked the Government to provide information on any developments in this regard. The Committee notes that the report does not provide any information on this subject.

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 initiatives to amend the Labour Code are ongoing, but no amendments have been made to the Labour Code. Section 124(3) of the draft Labour Code defined light work as work that poses no danger to health, life, physical or psychological development of a child and does not interfere with his/her education. The list of types of light work would be issued by the central government authority.

The Committee notes that the report does not provide any information about the developments regarding the amendments to the Labour Code. Therefore, the Committee reiterates its previous finding of non-conformity on the ground that the definition of light work is not sufficiently precise.

As regards the second ground of non-conformity, the Committee notes from the report that the State Labour Service carries out state control over compliance with labour legislation on the part of legal entities, including their structural and separate subdivisions, that are not legal entities, and the individuals who use the hired labour.

According to the report, during the period 2018-2021, violations of children's rights in the field of labour were committed by 239 employers in relation to 397 minors. As a result of the state

control activities, 78 reports on administrative offences were drawn up and submitted to the courts. Documents relating to 52 inspections were sent to law enforcement agencies for appropriate action. 222 orders to eliminate violations of labour legislation were issued.

The Committee considers that, despite the fact that child labour is prohibited and there has been certain improvement in monitoring child labour, the report does not provide any evidence that there have been significant improvements in reducing child labour, which the Committee has previously (Conclusions 2019) considered was widespread. Therefore, the Committee reiterates its previous finding of non-conformity with Article 7§1 of the Charter on the ground that the protection of children under the age of 15 against child labour is not guaranteed in practice.

Conclusion

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

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

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 on the ground that the prohibition of employment under the age of 18 for dangerous or unhealthy activities was not effectively guaranteed.

The Committee notes that the report does not provide any information concerning this finding of non-conformity.

The Committee 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 according to the CEACR the legislation in force did not explicitly prohibit children between 14 (the age of admission to vocational training) and 16 years to perform hazardous work during vocational training. In this regard, the CEACR emphasized that the necessary measures should be taken to ensure that young persons below 16 years of age engaged in apprenticeship do not undertake hazardous work. The CEACR noted that the Government’s report did not contain specific information on this point, but that pursuant to section 299(4) of the draft Labour Code published on the website of the Parliament, hazardous work during vocational training shall only be permitted if children reach the age of 18 upon the end of their vocational training.

In the absence of any information in the report regarding the enforcement of prohibition of employment of children in dangerous and unhealthy occupations, the Committee reiterates its previous finding of non-conformity.

Conclusion

The Committee concludes that the situation in Ukraine 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 Ukraine.

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 of the Charter on the following grounds:

- the definition of light work in national law is not sufficiently precise;
- the duration of working time for children aged 16-18 who are still subject to compulsory education is excessive and therefore the work cannot be qualified as light.

As regards the first ground of non-conformity, the Committee refers to its conclusion under Article 7§1 and reiterates its previous finding of non-conformity.

As regards the second ground of non-conformity, in its previous conclusion the Committee observed that young employees aged from 16 to 18 years old may work up to 36 hours per week. It further noted that the total duration of the general secondary education is 11 years and it starts at the age of six or seven. It therefore referred to its statement of interpretation on Article 7§1 and 7§3 and concluded that the situation was not in conformity with the Charter on the ground that the duration of working time for children aged 16-18 who are still subject to compulsory education was excessive and therefore, may deprive them of the full benefit of education.

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

Conclusion

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

- the definition of light work in national law is not sufficiently precise;
- the duration of working time for children aged 16-18 who are still subject to compulsory education 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 Ukraine. It also notes comments submitted by the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.

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

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

The Committee deferred its previous conclusion pending receipt of the information requested on supervision labour inspection and monitoring activities (Conclusions 2019).

In its previous conclusion, the Committee requested information on the number of inspections conducted by the State Labour Inspectorate Service, the number of violations detected and the sanctions imposed in practice for violation of the legislation concerning the reduced working time for young persons who were not subject to compulsory education.

The report states that in accordance with subparagraph 6 of paragraph 4 of the 2015 Regulation on the State Labor Service of Ukraine, the State Labor Service carries out state control over compliance with labor legislation on the part of legal entities and the individuals who use the hired labor. In 2018-2021, the SLS carried out 13,043 state control activities and found that violations of children's rights in the field of labor were committed by 239 employers in relation to 397 minors. The report provides information on sanctions imposed and specifies that Article 265 of the Labor Code of Ukraine envisages imposition of penalties for violations of labor legislation, in particular on the labor of minors.

Conclusion

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

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

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

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”).

The Committee deferred its previous conclusion pending receipt of the information requested (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of deferral and to the targeted questions.

Fair remuneration for young workers and apprentices

Under Article 7§5 the Committee examines if young workers are paid the equivalent of 80% of a minimum wage in line with the Article 4§1 fairness threshold (60% of the net average wage). Thus, if young workers' wage amounts to 80% of the minimum threshold required for adult workers (60% of the net average wage), the situation would be in conformity with Article 7§5 (Conclusions XVII-2, Spain). In the present case, as the young workers' wage is at the same level as the adult workers' wage, the Committee examines whether the net minimum wage of young workers represents 80% of the minimum threshold required for adult workers (60% of the net average wage). This is at least a 48% of the net average monthly wage. Since Ukraine has not accepted Article 4§1 of the Charter, the Committee makes its own assessment of the adequacy of young workers wage under Article 7§5. In its previous conclusion (Conclusions 2019), the Committee requested information about net amounts or the net average wage in order to conduct this assessment.

The report confirms that pursuant to Part 1 of Article 194 of the Labor Code of Ukraine (LCU), wages of employees under 18 years of age with short daily working hours is paid to the same extent as to employees of this respective category with full daily working hours.

The report does not provide information on the net minimum and average wage. The Committee notes from the outside sources that the net monthly minimum wage in 2022 amounted to 137 EUR and the net average stood at 306 EUR, accordingly the minimum wage constitute 44,7% of the average wage and, as such, it does not reach the threshold required by this provision. The Committee accordingly concludes that the situation is not in conformity with the Charter on this point.

In its previous conclusion, the Committee noted that the apprentices are paid in case of individual training for worker professions with piece rate wage system as follows: for the first month of apprenticeship at the rate of 75%, for the second – 60%, for the third – 40%, for the fourth and subsequent months till the end of the apprenticeship as envisaged in the program – 20% of the first class grade rate for appropriate profession at the enterprise. Apprentices in case of individual training for worker professions with time-based wage system are paid as follows: for the first and second months of apprenticeship at the rate of 75%, for the third and fourth months – 80%, for the subsequent months till the end of the apprenticeship as envisaged in the program – 90% of the first class grade rate for appropriate profession at the enterprise. The Committee asked for conformation whether this system was still in place and had not changed. The report does not provide information on this point.

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

Fair remuneration in atypical jobs

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

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

The report does not provide the requested information.

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

Enforcement

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

The report states that the State Labor Service of Ukraine, in accordance with its tasks, carries out state control over compliance with labor legislation on the part of legal entities, including their structural and separate subdivisions, that are not legal entities, and the individuals who use the hired labor. In 2018-2021, the SLS carried out 13,043 state control activities, during which the issues of compliance with the legislation on the labor of minors were studied.

The report provides statistical data on the results of state supervision over compliance with the legislation on the labor of minors and on application of penalties for violation of legislation on the labor of minors.

Conclusion

The Committee concludes that the situation in Ukraine is not in conformity with Article 7§5 of the Charter on the ground that young workers' wages are not fair.

Due to the failure to provide the information listed below the Committee concludes that the situation in Ukraine 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 Ukraine 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 atypical jobs;
- information on allowances paid to apprentices.

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 Ukraine.

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.

The Committee deferred its previous conclusion pending receipt of the information requested on the monitoring activity and findings (violations detected and sanctions applied) of the Labour Inspectorate in relation to the inclusion of time spent on vocational training in the normal working time (Conclusions 2019). The report does not provide the requested information.

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

Conclusion

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

List of questions:

- information on monitoring activity and findings (violations detected and sanctions applied) of the Labour Inspectorate in relation to the inclusion of time spent on vocational training in the normal working time.

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 Ukraine.

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 Ukraine 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 regarding paid annual holidays of 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 Ukraine 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 Ukraine 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 Ukraine 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 Ukraine 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 Ukraine.

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

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

The Committee asked for information on the number and nature of violations detected, as well as on the sanctions imposed for breach of the regulations regarding 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 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 Ukraine 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 Ukraine 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 Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- the number and nature of the violations detected, as well as of the sanctions imposed for breach of the regulations regarding the 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 Ukraine.

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 Ukraine 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 Ukraine 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 Ukraine 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 Ukraine 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 Ukraine 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 Ukraine.

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 Ukraine was not in conformity with Article 7§10 of the Charter on the ground that not all children under the age of 18 were protected against sexual exploitation (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 Ukraine was not in conformity with Article 7§10 of the Charter on the ground that not all children under the age of 18 were protected against sexual exploitation. It also asked for information on the adoption and implementation of the draft law “On Amendments to Certain Legislative Acts of Ukraine in Connection with the Ratification of the Convention of the Council of Europe on the Protection of Children against Sexual Exploitation and Sexual Abuse”. The Committee also sought information on whether child pornography was criminalised under the age of 18. In addition, it requested updated information on the extent of the problem of the use, procuring or offering of children under the age of 18 for prostitution, the production of pornographic material and pornographic performances. It requested Ukraine to provide statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed. It also asked if child victims of sexual exploitation, whether or not related to trafficking, could be held criminally responsible for their actions (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 the Law on Amendments to Certain Legislative Acts of Ukraine in Connection with the Ratification of the Convention of the Council of Europe on the Protection of Children against Sexual Exploitation and Sexual Abuse was adopted on 18 February 2021. Under this law, employees of educational, healthcare, social protection, sports, health and recreational institutions have to be familiar with the information on the protection of children from all forms of violence.

The report provides no information with regard to the previous conclusion of non-conformity, the Committee therefore reiterates it on the ground that children are not adequately protected against sexual exploitation.

The Committee notes from other sources (Lanzarote Committee Implementation Report addressing the challenges raised by children’s self-generated sexual images and/or videos of 10 March 2022) that the mere possession of child pornography is now criminalised in Ukraine.

Due to the failure to provide the requested information on the extent of the problem of the use, procuring or offering children of under the age of 18 for prostitution, for the production of pornography and for pornographic performances, on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed, on whether

child victims of sexual exploitation could be held criminally responsible for their actions, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

In reply to the targeted question, the report states that persons who are recorded in the register of persons convicted of crimes against the sexual freedom and sexual integrity of a minor are excluded from all work in contact with children.

The report further states that the Ministry of Social Policy conducts large-scale information campaigns against human trafficking, discrimination and violence. Moreover, on 14 July 2021, the Concept of the State's Targeted Social Programme for Combatting Human Trafficking was approved until 2025.

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 the Procedure for ensuring social protection of children in difficult life situations, including children who have suffered from child abuse, was approved in 2020. The Ukrainian police were also actively involved in the implementation of the "End online child sexual exploitation and abuse @Europe" initiative, which is a joint project with the Council of Europe.

The Committee notes from other sources (Lanzarote Committee Implementation Report addressing the challenges raised by child self-generated sexual images and/or videos of 10 March 2022) that the Ministry of Education and Science and the Ministry of Digital Transformation, with the support of the Presidential Commissioner for Children's Rights, have developed the educational project #stop_sexting, which aims to prevent and combat sexual violence on the Internet.

Due to the failure to provide the requested information on the protection of children from grooming, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Protection from other forms of exploitation

Previously, the Committee asked to be informed of the steps taken to build a consolidated statistical system on trafficking in human beings. It also asked for information on the number of children estimated to be engaged in child labour along with information on measures taken to address the problem. Finally, it asked to be informed on the extent of the problem and the measures taken to improve the protection and assist children in street situations (Conclusions 2019).

Due to the failure to provide the requested information on the steps taken to build a consolidated statistical system on trafficking in human beings, on the number of children estimated to be engaged in child labour along with information on measures taken to address the problem, on the extent of the problem and the measures taken to improve the protection and assist children in street situations, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Covid-19

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

The Committee recalls that Article 7§10 of the Charter guarantees protection against sexual and other exploitation of children as well as protection against the misuse of information technology and social media (for the purposes of online bullying, child pornography, grooming, harassment, etc.), which is particularly pertinent in view of the acceleration of digitalisation and online activity brought about by the pandemic (Statement on Covid-19 and social rights, 24 March 2021).

The report states that since 2020, the Government Contact Centre has received calls and reports about or from persons who have suffered from human trafficking, domestic violence, gender-based violence and violence against children during the pandemic.

Conclusion

The Committee concludes that the situation in Ukraine is not in conformity with Article 7§10 of the Charter on the ground that children are not adequately protected against sexual exploitation.

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

List of questions/Information missing:

- on the extent of the problem of the use, procuring or offering children of under the age of 18 for prostitution, for the production of pornography and for pornographic performances;
- on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed;
- on whether child victims of sexual exploitation could be held criminally responsible for their actions;
- on the protection of children from grooming;
- on the steps taken to build a consolidated statistical system on trafficking in human beings;
- on the number of children estimated to be engaged in child labour along with information on measures taken to address the problem;
- on the measures taken to improve the protection and assist children in street situations.

Article 8 - Right of employed women to protection of maternity

Paragraph 1 - Maternity leave

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

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 conclusion (Conclusions 2019), the Committee found that the situation in Ukraine was not in conformity with Article 8§1 of the Charter on the ground that it had not been established that there were sufficient safeguards in law or in practice to protect employees from pressure to take less than six weeks' postnatal leave.

Right to maternity leave

The Committee has previously found the situation in Ukraine not to be in conformity with Article 8§1 of the Charter on the ground that it had not been established that there were sufficient safeguards in law or in practice to protect employees from pressure to take less than six weeks' postnatal leave (Conclusions 2019).

The report recalls that Article 179 of the Labour Code provides that, on medical advice, employees are entitled to 70 days' paid maternity leave before the birth of their child and 56 days' after (which can be extended to 70 days in the event of multiple births or birth-related complications).

The Committee has already noted that these provisions are worded in terms which do not explicitly state that there must be a compulsory period of postnatal leave of at least six weeks, as required by the Charter (Conclusions 2019).

The report provides no information on any safeguards in law or in practice to protect employees from pressure to take less than six weeks' postnatal leave. It provides some information on the number of violations of the right to maternity leave detected during the reference period; two in 2018, three in 2019 and one in 2020. No information is provided on the number of women who take less than six weeks postnatal maternity leave.

Therefore the Committee reiterates its previous conclusion of non-conformity.

Right to maternity benefits

The Committee previously asked whether the minimum amount of maternity benefits corresponded to at least 50% of the median equivalised income (Conclusions 2019).

The report states that under Article 26 of the Law on the state compulsory insurance scheme No 115, maternity benefits amount to 100% of the average salary calculated in accordance with the procedure established by the Cabinet of Ministers. No further information is provided.

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

Due to the failure to provide the requested information on the minimum level of the maternity benefit and the median equivalised income or at-risk-of-poverty threshold, the Committee concludes that the situation in Ukraine is not in conformity with Article 8§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Ukraine of their reporting obligations under Article C of 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.

According to the report, the Covid 19 pandemic did not have any impact on the right to maternity benefits or leave.

Conclusion

The Committee concludes that the situation in Ukraine is not in conformity with Article 8§1 of the Charter on the ground that that there are no safeguards in law or in practice to protect employees from pressure to take less than six weeks' postnatal leave.

Due to the failure to provide the information listed below the Committee concludes that the situation in Ukraine is not in conformity with Article 8§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Ukraine of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on the minimum level of maternity benefit;
- on the median equivalised income or at risk of poverty threshold.

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 Ukraine.

The Committee recalls that no targeted questions were asked in relation 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”).

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

Covid-19

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

The report does not provide any information on this point.

Conclusion

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

Article 8 - Right of employed women to protection of maternity

Paragraph 3 - Time off for nursing mothers

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

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 Ukraine 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 Ukraine 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 Ukraine.

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 deferred its conclusion (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the information previously requested and the targeted question.

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

The Committee recalls that Article 176 of the Labour Code prohibits night work for pregnant women and women with children under the age of three years. However in its previous conclusion, the Committee asked whether the employed women concerned were transferred to a daytime post until their child was three years old and what rules applied if such a transfer were not possible (Conclusions 2019).

The current report provides no information in this respect.

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

Information missing:

- Whether pregnant women or women with children under three years of age who are prohibited from working at night are transferred to day time work or where this is not possible granted leave while maintaining 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 Ukraine.

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 grounds that in case of reassignment to a different post, the law did not guarantee the employees’ right to return to their previous employment at the end of their maternity/nursing period. (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 the targeted question.

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

The Committee notes from the report that the Labour Code prohibits pregnant women undertaking certain types of work which maybe harmful to their health or that of their child. In such cases women must be transferred to alternative duties or if this is not possible given leave. In both cases pregnant women shall retain their previous average salary. Women with a child under three years of age may also be transferred to an alternative post or granted leave while maintaining previous average wages. No information is provided as to whether at the end of the protected period women have the right to return to their previous post. The Committee, therefore, reiterates its previous conclusion of non conformity.

The Committee also notes that a draft law "on Worker's Safety and Health at Work" will amend the current legislation protecting pregnant women, women who have recently given birth or are breastfeeding.

Conclusion

The Committee concludes that the situation in Ukraine is not in conformity with Article 8§5 of the Charter on the ground that in case of the reassignment of pregnant women, or women with a child under three years of age due to the nature of their employment, to a different post, the law does not guarantee the employees’ right to return to their previous employment at the end of the protected period.

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 Ukraine and in the comments by the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.

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

In its previous conclusion, the Committee found that the situation in Ukraine was not in conformity with Article 16 of the Charter on the grounds that:

- women were not ensured adequate protection against domestic violence, in law and in practice;
- it had not been established that the level of family benefits was adequate.

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

Legal protection of families

Rights and obligations, dispute settlement

In its previous conclusion (Conclusions 2019), the Committee requested updated information on the rights and responsibilities of spouses, dispute settlement, including any regulations relating to children and to mediation services, in the light of the 2017 Concluding Observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW, for more details, see the previous conclusion).

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

Domestic violence against women

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

In its previous conclusions (Conclusions 2019, 2017 and 2011), the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that women were not ensured adequate protection against domestic violence, in law and in practice. It requested full, up-to-date information on domestic violence against women and related convictions, the implementation of the various measures adopted or envisaged, and their contribution to combating these forms of violence, again in the light of the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW).

In addition, in its targeted questions, 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 states that amendments to the Legal Aid Act, which came into force in May 2020, provide for the right to free secondary legal aid for victims of crimes against sexual freedom and integrity, torture or inhuman treatment during hostilities or armed conflict.

In addition, a government social programme to prevent and combat domestic and gender-based violence for the period up to 2025 was adopted in 2021. This programme aims to improve the existing system for responding to violence, provide comprehensive services for victims, promote a culture of non-violence in society and involve the business sector in preventing violence.

The report adds that in 2021, UAH 274.2 million (€8.800 million) was allocated from the state budget to local budgets to set up a network of specialist support services for victims of domestic violence. This has enabled the creation of 30 shelters, 38 day centres, 58 counselling services and the purchase of 41 vehicles for mobile teams. Social services have also been improved in the 16 existing shelters.

The report states that the number of recorded complaints of domestic violence received during the reference period was 284,221, of which 5,334 concerned children and 233,210 women. The number of restraining orders issued was 5,213 and the number of urgent restraining orders 46,799, while the number of people taking part in programmes for perpetrators of violence was only 438 (340 men), of whom 290 completed the programmes.

The Committee notes that the report does not contain the information requested concerning the actions and measures actually taken in this area, nor the number of prosecutions, convictions or examples of case law.

In the light of all the information at its disposal, the Committee considers that the situation is still not in conformity with Article 16 of the Charter, on the ground that there is no adequate protection, both in law and in practice, for women in cases of domestic violence.

Social and economic protection of families

Childcare facilities

In its previous conclusion (Conclusions 2019), the Committee requested updated information on childcare facilities (types of facilities, coverage in relation to the number of children under six, child/staff ratio, staff qualifications, premises used and financial contribution requested from parents). The Committee also took note of the information contained in the UNICEF report concerning children placed in institutions (for more details, see the previous conclusion) and asked the authorities to comment on these observations.

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

The Committee takes note of the comments of the Commissioner for Human Rights of the Ukrainian Parliament, which provide information on the different types of childcare services in Ukraine, their coverage and free of most childcare costs.

Family benefits

Equal access to family benefits

In its previous conclusion (Conclusions 2019), the Committee noted that nationals of other States Parties holding a permanent residence permit and refugees enjoy the same right to State assistance as Ukrainian citizens under the conditions laid down by law. It therefore asked what the conditions were for granting a permanent residence permit.

In a targeted question, the Committee asked whether nationals of other States Parties lawfully resident in the country had to meet a length of residence requirement to be entitled to family benefits.

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

Level of family benefits

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was not in conformity with Article 16 of the Charter on the ground that it had not been established that the level of family benefits was adequate.

In its targeted questions, the Committee asked for information on the amounts of family benefit paid and the median equivalised income for the reference period. It also asked if family or child benefits were means tested 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 that, according to data from the National Social Service, the average equivalised monthly income per person was UAH 6,785 (€218) in 2021.

The Committee notes that benefits are means-tested for all children and that the amount of support is determined on the basis of the minimum subsistence level (= living wage). It notes the different types of family support presented in the report. It has previously noted that mothers or fathers with three or more dependent children are entitled to 100% of the minimum wage until the child's 16th birthday (18th birthday if the child is in full-time education) and that this amount is increased to 200% of the minimum wage if they are caring for four or more children. According to MISSCEO, assistance for children is equal to 50% of the minimum wage for each child if the average total income of the members of the family in the previous quarter did not exceed three times the amount of the minimum wage. Low-income families with children (less than UAH 1,700 (€55) on average per person) are entitled to benefits.

The Committee notes that in 2021, the average amount of assistance for low-income families was UAH 6,300 (€202.2) per month, and UAH 6,800 (€218.2) for low-income large families. According to data from the National Social Service, on 1 January 2021, more than 2 million people were receiving various forms of assistance.

However, the Committee notes from the data in the report that the average equivalised income per person in Ukraine amounted to UAH 6,785 (€218) per month in 2021, which means that very many families received no assistance if their monthly income exceeded the threshold of UAH 1,700 (€55).

In view of all the above, the Committee considers that the situation is not in conformity with Article 16 of the Charter on the ground that family benefits do not constitute a sufficient income supplement for a significant number of families.

Measures in favour of vulnerable families

In its previous conclusion (Conclusions 2019), the Committee asked what specific measures were taken for the economic protection of vulnerable families, such as single-parent and Roma families.

The report states that the Government provides various types of state social assistance to vulnerable families, for example single mothers, low-income families and children whose parents evade maintenance payments. It explains the legal basis, eligibility criteria and income calculation method for each type of benefit. It also indicates the number of beneficiaries on 1 January 2022, i.e., 93,000 single mothers with 149,500 children, 195,000 low-income families with 409,000 children and 7,500 children whose parents do not pay

maintenance. However, it makes no mention of any specific measure to provide economic protection for Roma families.

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

The report states that the housing subsidy programme (cf. the Ukraine Government's Housing and Utilities Subsidy Programme – 2023, outside the reference period) is the main means of helping people to pay for their housing and public utilities. The state covers part of the cost of these services for low-income families. The lower the income, the less families have to pay. In 2020, the Covid-19 pandemic prompted the Government to amend the programme. It automatically awarded the subsidy to all families who had previously benefited from it, without them having to submit a new application. It also assisted people who had lost their jobs as the result of quarantine measures. It increased the amount of the subsidy for certain utilities because people had to stay at home and consume more electricity, gas and water. In 2021, the Government improved the programme to make it more accurate and efficient.

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 addition to the support measures mentioned above, the report states that the Government adopted and amended certain laws and resolutions to provide social and economic assistance to citizens affected by the Covid-19 pandemic. The main measures were as follows: simplifying the procedures for granting, recalculating and paying various types of state social assistance during the lockdown; extending the payment period and application deadlines for state benefits previously granted; continued payment of state social assistance to persons with disabilities until the end of the lockdown, with subsequent recalculation on the basis of the result of a health review; payment of child benefit to self-employed entrepreneurs belonging to the first and second tax brackets as single taxpayers; a one-off grant for children from large families on low incomes for the preparation of the school year.

Conclusion

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

- there is no adequate protection, both in law and in practice, for women in cases of domestic violence;
- family benefits do not constitute a sufficient income supplement for a significant number of families.

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

Information missing:

- the rights and responsibilities of spouses, dispute settlement, including any regulations relating to children, and mediation services;
- childcare facilities (types of facilities, coverage in relation to the number of children under six, child/staff ratio, staff qualifications, premises used and financial contribution requested from parents);
- the length of residence requirement imposed on nationals of other States Parties lawfully resident in the country in order to be eligible for family benefits.

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 Ukraine and in the comments by the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.

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

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

In its previous conclusion the Committee concluded that the situation in Ukraine was not in conformity with Article 17§1 of the Charter on the ground that the ratio of children in institutional care to the number of children in foster care or other forms of family-based care was too high (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 in December 2021, amendments were made to the Citizenship Law of Ukraine, which improved the procedure for acquiring citizenship for foreign or stateless children.

The report further states that Ukraine attempts to improve and simplify birth registration, particularly for vulnerable groups. During the reference period, the “Birth Certificate at the Maternity Hospital” pilot project was implemented, which envisages the establishment of front offices at healthcare institutions to receive and issue the documents needed to register births. Since 1 January 2021, all Civil Registry Offices in Ukraine have been able to receive the documents needed to register births, including for the Roma community, and immediately issue the corresponding certificates in maternity wards.

The report further states that public awareness-raising campaigns are held annually to encourage and ensure the registration of all children. A birth certificate can also be obtained on completion of the birth registration form in person at the healthcare institution where the child was born, or by post.

Child poverty

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

The report states that the Human Development Strategy approved in 2021 aims to reduce the poverty level in Ukraine. Social assistance programmes in 2021 had a significant impact on the poverty level of their beneficiaries. The most effective programmes are assistance for low-income families and child benefit for single parents.

The report also states that the national police take measures to combat discrimination and promote equal opportunities for children of particularly vulnerable categories. The police carry out preventive work and ensure the implementation of various measures.

The report states that, the Roma strategy approved in 2021 for the period until 2030 sets out the conditions for implementing Roma rights.

The report states that in 2021, the poverty rate among children was 24.3%, while in 2018 it was 35%, which represents a significant decrease (in 2021 the EU average was 24.4%).

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

Previously, the Committee requested information on accommodation facilities for migrant children, whether accompanied or not, including measures taken to ensure that children were accommodated in appropriate settings. It also requested further information on the assistance given to unaccompanied children, in particular to protect them from exploitation and abuse. It also asked whether children in an irregular migration situation in Ukraine, accompanied by their parents or not, could be detained and, if so, under what circumstances. The Committee also asked whether children in an irregular migration situation had access to healthcare. Finally, it asked whether Ukraine used bone testing to assess age and, if so, in what situations, and what potential consequences such testing could have (Conclusions 2019).

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

Due to the failure to provide requested information on measures taken to ensure that accommodation facilities for children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored; on assistance given to unaccompanied children in order to protect them from abuse and exploitation; on whether children in an irregular situation, accompanied by their parents or not, could be detained, and, if so, under what circumstances; whether children in an irregular migration situation have access to healthcare; whether Ukraine uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have; on any measures adopted to protect and assist children in crisis situations and emergencies, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Rights of children in public care

In its previous conclusion, the Committee concluded that the situation in Ukraine was not in conformity with Article 17§1 of the Charter on the ground that the ratio between the number of children in institutional care and the number of children in foster care or other forms of family-based care was too high. The Committee asked for information on any measures taken to ensure that children were not taken into care solely because of their parents' lack of financial means. It also asked for full information on the progress made in deinstitutionalisation, including the number of children in institutions, foster families and other forms of care (Conclusions 2019).

In its comments, the Secretariat of the Ukrainian Parliament Commissioner for Human Rights (the Ombudsman) states that in 2020, there were 2,756 children in homes for babies, the main reasons for them being placed there were difficult financial situation of families, inability of the parents to take care of the child, neglect, careless treatment due to drug or alcohol abuse, and child abandonment. Also, in 2018, there were 105,417 children in institutions, in 2019 – 99,917 children and in 2020 – 96,577 children. The Ombudsman further states that children experience violence and abuse in institutions.

The Committee reiterates its conclusion of non-conformity on the ground that the ratio of children in institutional care to the number of children in foster families or other forms of family-based care is too high.

Due to the failure to provide requested information on measures taken to ensure children are not taken into care solely on the basis of the lack of financial means of the parents, on the progress made in deinstitutionalisation, including the number of children in institutions, foster families and other forms of care, the Committee therefore concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Children in conflict with the law

The Committee has previously asked whether Ukrainian legislation allowed children to be detained for 12 months pending trial and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Ukraine was in conformity with Article 17§1 of the Charter. It also asked what measures had been taken to abolish solitary confinement for children (Conclusions 2019).

The report describes the draft Law on Child-Friendly Justice and other amendments of national legislation which will take into account the particularities of proceedings where a child has committed an offence. The Committee notes that the draft law has not yet been adopted.

The report also states that minors who blatantly infringe the rules of the prison regime may be placed in solitary confinement for a period of up to five days.

The Committee notes that the pre-trial detention of children is not established by specific regulations and the general rules of pre-trial detention apply. Article 197 of the Criminal Code provides that pre-trial detention can last up to six months in case of minor crimes and 12 months for serious or particularly serious crimes. No information is provided on the maximum length of the pre-trial detention of children. The Committee recalls that it has previously found that eight-month and seven-month periods of pre-trial detention were not in conformity with the Charter (Conclusions XX-4, 2015, Denmark, Conclusions 2019, Slovak Republic). The Committee considers that in order to be in conformity with the Charter, the pre-trial detention of children should not exceed six months. The Committee therefore considers that the situation in Ukraine is not in conformity with Article 17§1 of the Charter on the ground that the maximum length of pre-trial detention is excessive.

In its comments, the Ombudsman states that certain aspects of judicial proceedings need to be improved, for example, the actual prosecution of children who have not reached the age of criminal responsibility, the high percentage of punishments involving isolation from society, the resocialisation of minors. The Government did not provide a response.

Conclusion

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

- the ratio of children in institutional care to the number of children in foster families or other forms of family-based care is too high;
- 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 Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- on measures taken to ensure that accommodation facilities for children in an irregular situation, whether accompanied or unaccompanied, are appropriate and adequately monitored;
- on assistance given to unaccompanied children in order to protect them from abuse and exploitation;
- whether children in an irregular migration situation have access to healthcare;
- on whether children in an irregular situation, accompanied by their parents or not, could be detained, and, if so, under what circumstances;
- whether Ukraine uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have;
- on any measures adopted to protect and assist children in crisis situations and emergencies;
- on measures taken to ensure children are not taken into care solely on the basis of the lack of financial means of the parents;
- on the progress made in deinstitutionalisation, including the number of children in institutions, foster families and other forms of care.

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 Ukraine and in the comments by the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.

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

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

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, 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 does not provide the information requested.

In its comments, the Secretariat of the Ukrainian Parliament Commissioner for Human Rights states that in 2021, the enrolment rate of children in secondary education was 78.9%.

The Committee notes from other sources (UNESCO database) that in 2021, enrolment rate in primary education was 84.13% and in lower secondary education – 88.66%.

The Committee notes that the objective should be to achieve a 100% enrolment rate in primary and secondary education, and considers that the situation in Ukraine is not in conformity with Article 17§2 of the Charter on the ground that the enrolment rate in primary and secondary education is too low.

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 updated information on whether children in an irregular migration situation could access primary education and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Ukraine was in conformity with Article 17§2 of the Charter. The Committee also asked for information on the situation of Roma children: enrolment, drop out and completion rates, as well as measures taken to encourage school attendance and support Roma children in education. It also asked for information on the number of Roma children in special schools. It also sought information on measures taken to facilitate access to education for children from vulnerable families, such as internally displaced persons, children living in rural areas (Conclusions 2019).

The report states that the Roma strategy aims to expand access to quality education for Roma people, to encourage them to complete general secondary education and prevent early school leaving.

In its comments, the Secretariat of the Ukrainian Parliament Commissioner for Human Rights reports that the majority of children placed in special educational institutions are intellectually disabled. The Commissioner asserts that generally speaking, Ukraine does not have a high-quality, inclusive education system. The Government did not provide a response.

Due to the failure to provide the requested information on whether children in an irregular migration situation can access primary education; on the situation of Roma children: enrolment, drop out and completion rates, as well as measures taken to encourage school attendance and support Roma children in education, on the number of Roma children in special schools; on measures taken to facilitate access to education for children from vulnerable families, such as internally displaced persons, children living in rural areas, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

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.

According to the report, liability for bullying is defined in Article 173⁴ of the Code on Administrative Offences. The Law Amending some Ukrainian Laws to Improve Legislation on Combatting Bullying was also adopted. Its purpose is to define the very concept of bullying more clearly.

The report adds that the “Specialist in safety in the educational environment” project was implemented to create a safe educational environment. In order to prevent cyber bullying, training courses were organised for police officers. A number of other initiatives have been implemented: “Safe School”, “Stop School Bullying”, “I have the right to be myself”, “Building the future together”, “Walking to school safely”. They all have the same objective: to provide a safe educational environment for children.

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 does not provide the information requested.

Conclusion

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

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

List of questions/Information missing:

- on whether children in an irregular migration situation can access primary education;
- on the situation of Roma children: enrolment, drop out and completion rates, as well as measures taken to encourage school attendance and support Roma children in education, on the number of Roma children in special schools;
- on measures taken to facilitate access to education for children from vulnerable families, such as internally displaced persons, children living in rural areas.

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 Ukraine.

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).

The previous conclusion (Conclusions 2019) found the situation in Ukraine to be in conformity with Article 27§1 the Charter. However, the Committee asked for the next report to contain a full update of the information on Article 27§1. It will therefore consider the recent developments and additional information.

Employment, vocational guidance and training

The Committee previously asked for the next report to contain a full update of the information (Conclusions 2019).

The Committee notes that the report does not provide information on any changes regarding the entering, remaining and re-entering employment, nor on vocational guidance, training and retraining of persons with family responsibilities. The Committee therefore concludes that there were no changes during the reference period.

Conditions of employment, social security

The Committee previously asked for the next report to contain a full update of the information (Conclusions 2019).

In reply, the report states flexible working hours and remote work were introduced in 2021 when the Law "On Amendments to some legislative Acts of Ukraine regarding the improvement of legal regulation of remote, home-based and work with flexible working hours" supplemented the Labour Code with Article 60 para. 2. Under that Article, remote work is work performed by the worker outside the employer's premises, by using information and communication technologies. The worker determines the workplace, ensures safe working conditions, organises working time, and the rest period in form of disconnection period is guaranteed. The person who is on parental leave due to care of the child may work part-time or from home.

Child day care services and other childcare arrangements

The Committee previously asked for the next report to contain a full update of the information (Conclusions 2019).

In reply, the report state that by the order No. 136/2022 of the Ministry of Social Policy registered with the Ministry of Justice under No. 557/37893/2022 the Regulation on the activities of children's rooms in institutions and organisations was approved. It aims at improvement of working conditions and reconciliation of professional life and family responsibilities of workers and visitors of institutions or organisations. Also, it ensures the possibility of temporary stay of worker's and visitor's children without being accompanied by parents or legal representatives.

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 during an epidemic, pandemic, the need for self-isolation of a worker as established by law, or in the event of an armed aggression or another form of emergency situation, the remote work may be ordered by the employer, without previous written contract on remote work, If the employer has the appropriate resources and means, workers with family responsibilities may also work remotely.

Conclusion

The Committee concludes that the situation in Ukraine 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 Ukraine and comments submitted by the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.

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 Ukraine was not in conformity with Article 27§2 of the Charter on the grounds that the level of parental leave benefit was inadequate, and that there was no guarantee of an individual, non-transferable right to 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

In previous conclusion (Conclusions 2019), the Committee held that the situation in Ukraine was not in conformity on the ground that the right to parental leave was not guaranteed to each parent as an individual non-transferable right.

The report states that under Part 3 of Article 179 of Ukraine’s Labour Code, a child’s mother, father, grandmother, grandfather, another relative who takes care of the child, adoptive parent or foster parent may take leave to care of the child until it is three years of age. Only one person may take up parental leave at a given time. Part 6 of Article 179 provides for the possibility to take unpaid leave until the child reaches the age of 6 if, according to a medical opinion, the child needs medical care at home. Similarly, in this case, parental leave can only be taken by one person at a time.

The equal right to take parental leave for each parent was underlined by the legislative amendments to Ukraine’s 2021 Law on leaves. Under Part 3 of Article 18 of the above law, parental leave can also be used in full or in part by the grandmother, grandfather, another relative who takes care of the child, adoptive parent, or foster parent. The Committee also notes the comments by the Commissioner for Human Rights, according to which Article 19 of Ukraine’s Law on Leaves was amended in April 2021, so that additional leave of 10 calendar days for workers who have two children under the age of 15 or an adult child with a disability from childhood, is now granted to both women and men.

However, 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 concludes that the parental leave is not guaranteed as an individual non-transferable right of each parent.

Definition, duration and conditions

The report mentions the draft Law No. 5585/2021 on Amendments to the Law of Ukraine on State Assistance to Families with Children according to which the childbirth assistance and childbirth allowance will be increased and will be linked to the consumer price index. It also reported that paternity leave was to be increased to 14 calendar days as of 2022, which falls outside the reference period.

The Committee recalls that Article 27§2 provides for the right to parental leave which is distinct from maternity (addressed under Article 8 of the Charter) and paternity leave and that the parental leave is a period after the maternity leave. The Committee therefore notes that the correct approach of the report would be to distinguish between these two rights and to provide distinctive information accordingly.

Remuneration

In its previous conclusion, the Committee considered that the level of parental leave was inadequate.

The report states that, according to Part 4 of Article 179 of the Labour Code, the leave is partially paid or unpaid. Under Part 3 of Article 179, at the request of the child's mother or father, one of them is granted leave to care for the child until the child reaches the age of three with payment of assistance for these periods in accordance with the law.

The Committee notes that, according to Part 1.3 of Article 3 of the Law on state assistance to families with children which provided that the child received social assistance until the age of three was repealed by the 2014 Law on Preventing Financial Catastrophe and Creating Prerequisites for Economic Growth in Ukraine and as constitutional by the Decision of the Constitutional Court No. 9-r/2018 from 2018. A childbirth allowance of 41 280 UAH (€1 072) is provided, part of which, namely 10 320 UAH (€268) is paid once, the rest of the amount of assistance is monthly paid over the next 36 months (3 years) in equal amounts of 860 UAH (€22.33). The childbirth allowance is given to one of the parents or a guardian who permanently lives with the child. Ukraine's Ministry of Social Policy has clarified that child allowance until the age of three has been combined with the childbirth allowance into a single form of assistance to optimise social protection.

The Committee also notes the information provided in the report concerning the increase in the level of state support for families with children, the Ministry of Social Policy has developed a draft Law on Amendments to Ukraine's Law on state assistance to families with children (Reg. No. 5585 from 2021), which establishes the increase in payments for the birth of the first child to UAH 50 000 (€1 280.87), for the second childbirth to UAH 100 000 (€2 561.74) and the third and each subsequent child to UAH 150 000 (€3 842.62). It is also proposed to increase the amount of the childbirth allowance annually in line with the consumer price index.

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); States must ensure that an employed parent is adequately compensated for his/her loss of earnings during the period of parental leave; the modalities of compensation is within the margin of appreciation of the States Parties and may be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations; regardless of the modalities of payment, the level must be adequate (Conclusions 2015, Statement of Interpretation on Article 27§2); unpaid parental leave is not in conformity with Article 27§2 (Conclusions 2019, Ireland, Malta).

The Committee notes that the above information concerns various childbirth and childcare allowances, benefits, and supplements and not the remuneration that would replace the income lost due to an employee's absence from work to take care of a child. Therefore, the Committee considers that the compensation during parental leave is not adequate on the

ground that it does not replace the income lost due to 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.

The report does not provide information on whether Covid-19 crisis had an impact on the right to parental leave.

Conclusion

The Committee concludes that the situation in Ukraine 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 and
- the remuneration during the parental leave is not adequate on the ground that it does not replace the income lost due to 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 Ukraine.

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

The previous conclusion (Conclusions 2019) found the situation in Ukraine to be in conformity with Article 27§1 the Charter. However, the Committee asked for the next report to contain a full update of the information on Article 27§3. It will therefore consider the recent developments and additional information.

Protection against dismissal

The Committee previously asked for the next report to contain a full update of the information (Conclusions 2019).

According to information provided to the Committee, the provisions of the Labour Code which prohibit the dismissal of workers with family responsibilities (Articles 179, 184 and 186) have not changed since the previous reporting cycle.

Effective remedies

The Committee previously asked for the next report to contain a full update of the information (Conclusions 2019).

According to information provided to the Committee, the provisions of the Labour Code (Article 235), Civil Procedure Code (Article 157) and the practice of the Supreme Court (Resolution No. 10-644/0/4-14 “On the proper provision of equality of labor rights of citizens in the consideration of disputes arising in the field of labor relations”) have not changed since the previous reporting cycle. Moreover, the Law on Ensuring Equal Rights and Opportunities in Article 23 (as amended in 2017) stipulates that a person has the right to compensation for pecuniary damages and non-pecuniary damages caused due to discrimination based on gender, sexual harassment or other acts of violence based on gender. Non-pecuniary damages are compensated regardless of the amount awarded for 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 does not provide any information on whether the Covid-19 crisis had an impact on the rights protected under Article 27§3.

Conclusion

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

Article 31 - Right to housing
Paragraph 1 - Adequate housing

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

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 Ukraine was not in conformity with Article 31§1 of the Charter on the ground that it had not been established that sufficient measures were taken to improve the substandard housing conditions of Roma (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 questions raised in its previous conclusion, and the targeted questions.

Criteria for adequate housing

In its previous conclusion, the Committee asked whether housing adequacy standards applied to the existing housing stock at the time of the entry into force of those standards (Conclusions 2019). The Committee also asked whether there were any requirements established by law in respect of house size (i.e., the minimum living space size). The Committee reserved its position on these points.

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 presents data on the share of the population living in overcrowded housing during the reference period, which reveals a marginally positive trend (i.e., 53.7% in 2018, 50.2% in 2019, 49.3% in 2020, and 49.8% in 2021). The report does not otherwise provide the requested information.

The Committee refers to the 2020 Concluding Observations for Ukraine by the Committee on Economic, Social and Cultural Rights, noting that the statistical survey on the housing register and housing allocation had not been carried out since 2015 and that no alternative data or indicators were available that would allow targeted development and implementation of its housing policy.

Due to the failure to provide requested information on whether housing adequacy standards apply to the existing housing stock at the time of the entry into force of those standards and whether legal requirements are in place in respect of house size (i.e., the minimum living space size), the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Responsibility for adequate housing

In its previous conclusion, the Committee asked which authorities had overall responsibility for ensuring compliance with the applicable rules on housing adequacy (in respect of the entire housing stock, whether rented or not, privately or publicly owned), whether these authorities may carry out inspections and the frequency of those inspections, and what follow-up was given to decisions finding that a dwelling did not comply with the relevant regulations, and reserved its position on these points (Conclusions 2019). The report does not provide the requested information.

Due to the failure to provide requested information on the authorities with overall responsibility for ensuring compliance with the applicable standards on housing adequacy (in respect of the entire housing stock, whether rented or not, privately or publicly owned), whether these authorities may carry out inspections, the frequency of such inspections, and the follow-up given to decisions of non-compliance, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Legal protection

In its previous conclusion, the Committee asked for information on the type of cases concerning the right to adequate housing that might be brought before the courts and whether extra-judicial remedies were also available concerning this right (Conclusions 2019). The Committee also asked for information on any relevant case-law of domestic courts and reserved its position on these points. The report does not provide the requested information.

Due to the failure to provide requested information on the type of cases concerning the right to adequate housing that might be brought before the courts, whether extra-judicial remedies are also available concerning this right, with relevant case-law examples, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

Measures in favour of vulnerable groups

In its previous conclusion, the Committee concluded that the situation in Ukraine was not in conformity with Article 31§1 of the Charter on the ground that it had not been established that sufficient measures were taken to improve the substandard housing conditions of Roma (Conclusions 2019). The Committee asked whether sufficient funding was being allocated to the implementation of the Strategy and the Action Plan with regard to the housing conditions of Roma, as well as to other measures foreseen in this area during the following reference period.

In a targeted question, the Committee also 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.

The report does not provide any information on the measures taken to improve the housing situation of Roma.

Due to the failure to provide requested information on the measures taken to improve the housing situation of Roma, the Committee concludes that the situation in Ukraine 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 Ukraine of their reporting obligations under Article C of the Charter.

In its previous conclusion, the Committee asked for information on the measures taken to guarantee the right to housing for internally displaced persons (Conclusions 2019). The report notes that a new strategy for the integration of internally displaced persons for the period 2021-2024 was adopted in 2021, replacing the previous strategy document, which lapsed in 2020. These policy documents aim among others to facilitate the access of internally displaced persons to temporary and permanent housing, through mechanisms such as preferential mortgage loans, housing subsidies, and social housing. The report notes that 1,424 households benefited from such measures between 2017 and 2021.

Conclusion

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

List of questions/Information missing:

- on whether housing adequacy standards apply to the existing housing stock at the time of the entry into force of those standards and whether legal requirements are in place in respect of house size (i.e., the minimum living space size);
- on the authorities with overall responsibility for ensuring compliance with the applicable standards on housing adequacy (in respect of the entire housing stock, whether rented or not, privately or publicly owned), whether these authorities may carry out inspections, the frequency of such inspections, and the follow-up given to decisions of non-compliance;
- on the type of cases concerning the right to adequate housing that might be brought before the courts, whether extra-judicial remedies are also available concerning this right, with relevant case-law examples;
- on the measures taken to improve the housing situation of Roma.

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

The Committee takes note of the information contained in the report submitted by Ukraine, as well as the comments from the Ukrainian Parliament Commissioner for Human Rights.

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 Ukraine was not in conformity with Article 31§2 of the Charter on the grounds that:

- the legal protection for persons threatened by eviction was not adequate;
- it had not been established that the right to shelter was adequately guaranteed (Conclusions 2019).

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

Preventing homelessness

In its previous conclusion, the Committee asked for information on the number of homeless persons and on the measures taken to prevent and remedy the situation of homelessness (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 notes that 32,600 persons were accommodated in different types of facilities for persons in a situation of homelessness in 2021, including centres for registration of homeless persons, overnight shelters, reintegration centres and social hotels. The report does not otherwise provide the requested information.

In its comments, the Commissioner for Human Rights notes that, in 2021, the Ministry of Social Rights approved a draft action plan to prevent and reduce homelessness, which, however, is yet to be adopted by the Government.

Due to the failure to provide requested 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, and on the number of homeless persons, the Committee concludes that the situation in Ukraine is not in conformity with Article 31§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Ukraine of their reporting obligations under Article C of the Charter.

Forced eviction

In its previous conclusion, the Committee concluded that the situation in Ukraine was not in conformity with Article 31§2 of the Charter on the ground that the legal protection for persons threatened by eviction was not adequate (Conclusions 2019). The Committee asked for information on the notice period applying in cases of eviction without provision of alternative accommodation, on whether the law prohibited evictions at night or during winter, and on the access to legal remedies against eviction and compensation in the event of illegal eviction.

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 were 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 were installed).

The report does not provide the information requested. However, the Committee refers to the Committee of Ministers monitoring of the execution of several judgments against Ukraine featuring violations of the European Convention on Human Rights related to forced evictions, which took place without sufficient procedural safeguards protecting the applicants' right to home (namely those grouped around the leading case of *Kryvitska and Kryvitsky v. Ukraine*). Furthermore, the Commissioner for Human Rights notes, in its comments, that a category of persons subject to eviction procedures, namely those who purchased property classified as communal or state property from persons who were not lawful owners, are not provided with alternative accommodation.

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

Right to shelter

In its previous conclusion, the Committee concluded that the situation in Ukraine 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 adequately guaranteed (Conclusions 2019). In doing so, the Committee referred to the persistent lack of information on whether shelters/emergency accommodation satisfied security requirements and health and hygiene standards, and whether the law prohibited eviction from shelters or emergency accommodation without the provision of alternative accommodation.

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.

Other than the total number of persons accommodated in facilities that may presumably be characterised as shelters/emergency accommodation in 2021, mentioned above, the report does not provide the information requested.

In its comments, the Commissioner for Human Rights provides a summary of its findings from a monitoring exercise of shelters for persons in a situation of homelessness, carried out in 2021. Many of the shelters visited failed to provide services or facilities such as registration of homeless people, personal document recovery, sanitary and hygienic rooms, first aid kits or medical examinations, in breach of existing regulations.

Due to the failure to provide requested information on the availability and adequacy of shelters/emergency accommodation and on whether the law prohibits eviction from shelters/emergency accommodation without the provision of alternative accommodation, the Committee concludes that the situation in Ukraine is not in conformity with Article 31§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Ukraine of their reporting obligations under Article C of the Charter.

Conclusion

The Committee concludes that the situation in Ukraine is not in conformity with Article 31§2 of the Charter on the ground that the legal protection for persons threatened by eviction is insufficient.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Ukraine is not in conformity with Article 31§2 of the Charter. The Committee

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

List of questions/Information missing:

- the measures taken to prevent categories of vulnerable people from becoming homeless and to reduce the number of persons in a situation of homelessness, and on the number of homeless persons;
- on the availability and adequacy of shelters/emergency accommodation;
- on whether the law prohibits eviction from shelters/emergency accommodation without the provision of alternative accommodation.