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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-2 (2021)

CROATIA

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, statements of interpretation, and general questions from the Committee, is contained in the General Introduction to all Conclusions.

The following chapter concerns Croatia, which ratified the 1961 European Social Charter on 26 February 2003. The deadline for submitting the 12th report was 31 December 2020 and Croatia submitted it on 9 April 2021.

The Committee recalls that Croatia was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter of 3 June 2020, 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 all findings of non-conformity or deferral in its previous conclusions (Conclusions XX-2 (2013)).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions XX-2 (2013)) found the situation to be in conformity, there was no examination of the situation in 2020.

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 concerned the following provisions of the thematic group II "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3);
- the right to protection of health (Article 11);
- the right to social security (Article 12);
- the right to social and medical assistance (Article 13);
- the right to benefit from social welfare services (Article 14);
- the right of elderly persons to social protection (Article 4 of the Additional Protocol).

Croatia has accepted all provisions from the above-mentioned group except Articles 3, 12 and Article 4 of the Additional Protocol.

The reference period was from 1 January 2016 to 31 December 2019.

The conclusions relating to Croatia concern seven situations and are as follows:

– one conclusion of conformity: Article 11§2.

– three conclusions of non-conformity: Articles 13§1, 13§4 and 14§1.

In respect of the other three situations related to Articles 11§1, 11§3 and 14§2, the Committee needs further information in order to examine the situation.

The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Croatia under the 1961 Charter.

The next report to be submitted by Croatia will be a simplified report dealing with the follow up given to decisions on the merits of collective complaints in which the Committee found a violation.

The deadline for submitting that report was 31 December 2021.

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

Article 11 - Right to protection of health

Paragraph 1 - Removal of the causes of ill-health

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 11§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection").

In its previous conclusion, the Committee concluded that the situation in Croatia was in conformity with Article 11§1 of the 1961 Charter, pending receipt of the information requested (Conclusions XX-2 (2013)). The assessment of the Committee will therefore only concern the information provided by the Government in response to the targeted questions.

The Committee wishes to point out that it will take note of the reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the Covid-19 section below will not be assessed for the purposes of Charter compliance in the current reporting cycle.

Measures to ensure the highest possible standard of health

In reply to the Committee's targeted question on statistical data on life expectancy across the country and different population groups, the report indicates that, in 2019, life expectancy at birth was 78.5 years (average), i.e., 81.6 years for women and 75.4 years for men. For example, the EU-27 average was 81.3 in 2019.

The report does not provide information on life expectancy across different population groups. The Committee notes in the report *Croatia: Country Health Profile 2019* (OECD, the European Observatory on Health Systems and Policies, and the European Commission) that social inequalities in life expectancy appear to be less pronounced in Croatia than in many other EU countries. Yet, men with low education live on average 5.2 years less than those who completed tertiary education. The gap for women (1.6 years) is far below the EU average (4.1 years).

The report further provides statistical data regarding certain diseases such as: blood-borne infectious diseases, hepatitis C and cancer. For example, the report indicates that while the number of people with cancer increased, data on cancer mortality indicate a declining trend during the reference period.

Access to healthcare

In a targeted question, the Committee asked for information about sexual and reproductive healthcare services for women and girls (including access to abortion) and statistical information about early (underage or minor) motherhood, as well as child and maternal mortality.

The report provides information on the advisory centres for health and youth within the school medical care which provide support to pupils and students on reproductive health, mental health, learning problems, risky behaviour etc. The report provides statistical data on the number of visits to the advisory centres of pupils and students related to reproductive health.

The report indicates that, as of the age of 12, girls and women can access a specialist in gynaecology and obstetrics at the primary level of healthcare according to the diagnostic-

therapeutic procedures listed in the Decision on the Grounds for Concluding a Contract on the Implementation of Healthcare from the Compulsory Health Insurance.

The report does not provide information about the sexual and reproductive healthcare services for women and girls, including access to abortion. The Committee reiterates its question. It points out that if such information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

The Committee notes from other sources that abortion in Croatia is legal within the first 10 weeks of pregnancy and thereafter under limited circumstances. However, women continue to face difficulties and barriers in accessing legal abortion care. These include: widespread refusals of abortion care, financial barriers, the lack of accessible evidence based information about abortion, social stigma related to abortion and biased service provision by some medical professionals towards women requesting abortion care, including use of ultrasounds to dissuade women from having an abortion (Joint submission by the Center for Reproductive Rights, Center for Education, Counselling and Research (CESI) and Parents in Action (RODA) to the UN Human Rights Council, September 2019). According to a study carried out by the Gender Equality Ombudsperson in 2018, around 60 percent of gynaecologists in Croatia do not provide legal abortion services due to claims of personal conscience (Gender Equality Ombudsperson of Croatia, Report 2018).

The Committee recalls having held that, in respect of abortion, once States Parties introduce statutory provisions allowing abortion in some situations, they are obliged to organise their health service system in such a way as to ensure that the effective exercise of freedom of conscience by health professionals in a professional context does not prevent patients from obtaining access to services to which they are legally entitled under the applicable legislation (International Planned Parenthood Federation – European Network (IPPF EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013, § 69; and *Confederazione Generale Italiana de Lavoro* (CGIL) v. Italy, Complaint No. 91/2013, decision on the merits of 12 October 2015, §166-167).

The Committee asks for information on the measures and actions taken to ensure that the exercise of freedom of conscience by health professionals in Croatia does not prevent patients from obtaining access to services to which they are legally entitled under the applicable legislation and from benefiting from unbiased, confidential and medically accurate counselling.

The Committee further asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part. It also asks whether abortion care is available in medical facilities across the country, including in rural areas.

The Committee also asks for information on the measures taken to ensure that women and girls have access to modern contraception. Moreover, it requests information on the proportion of the cost of contraceptives that is not covered by the State (in cases where the cost is not fully reimbursed by the State).

The report provides statistical data on early motherhood. It indicates that in 2016, 2.89% of all mothers were under the age of 20, while in 2018 the share was 2.42%. Of all legally induced abortions in 2016, 7.14% were among girls under the age of 20, while in 2018 this share was 6.41%.

The report indicates that the infant mortality rate (number of infant deaths per 1,000 live births) decreased from 4.3 in 2016, to 4.2 in 2018 and 4 in 2019 (while the EU 27 average in 2019 was 3.4).

The report also indicates that the maternal mortality rate in 2016 was 2.7 per 100,000 live births, while no maternal deaths were recorded in the following two years (2017 and 2018). The Committee notes that according to World Bank data, maternal mortality (number of deaths per 100,000 live births) was 8 in 2015, 7 in 2016 and 8 in 2017 (while the EU average

was 6 in 2017). The Committee asks for updated information regarding maternal mortality rates and information on any measures taken to reduce maternal mortality.

The Committee refers to its general question as regards the right to protection of health of transgender persons in the general introduction. The Committee recalls that respect for physical and psychological integrity is an integral part of the right to the protection of health guaranteed by Article 11. Article 11 imposes a range of positive and negative obligations, including the obligation of the state to refrain from interfering directly or indirectly with the enjoyment of the right to health. Any kind of unnecessary medical treatment can be considered as contrary to Article 11, if accessing another right is contingent upon undergoing that treatment (Transgender Europe and ILGA Europe v. Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018, §§74, 79, 80).

The Committee recalls that state recognition of a person's gender identity is itself a right recognised by international human rights law, including in the jurisprudence of the European Court of Human Rights, and is important to guaranteeing the full enjoyment of all human rights. It also recalls that any medical treatment without free informed consent (subject to strict exceptions) cannot be compatible with physical integrity or with the right to protection of health. Guaranteeing free consent is fundamental to the enjoyment of the right to health, and is integral to autonomy and human dignity and the obligation to protect the right to health (Transgender Europe and ILGA Europe v. Czech Republic, Complaint No. 117/2015, decision on the merits of 15 May 2018, §§78 and 82).

The Committee invites states to provide information on the access of transgender persons to gender reassignment treatment (both in terms of availability and accessibility). It asks whether legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilisation or any other medical requirements which could impair their health or physical and psychological integrity. The Committee also invites states to provide information on measures taken to ensure that access to healthcare in general, including sexual and reproductive healthcare, is provided without discrimination on the basis of gender identity.

In a targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). The report indicates that the Health Care Act regulates the rights of patients when seeking healthcare as well as the ways in which these rights are protected and promoted. The Committee notes that informed consent stems from the right to physician-patient joint decision-making, which includes the right to be informed (Article 8 of the Act on the Protection of Patients' Rights) and the right to accept or refuse medical procedures (Article 16 of the Act on the Protection of Patients' Rights and Article 26 of the Health Care Act).

Pursuant to Article 8 of the Act on the Protection of Patients' Rights, the patient has the right to be fully informed on: his/her health condition, including a medical assessment of the results and outcomes of a particular diagnostic or therapeutic procedure; the recommended examinations and procedures and their planned timing; the possible benefits and risks of performing or not performing the recommended examinations and procedures; his/her right to decide on the recommended examinations or procedures; possible alternatives to the recommended procedures; the course of procedures in the provision of healthcare; the further course of healthcare; the recommended lifestyle; rights to health insurance and the procedures for exercising these rights. Under this Act, patients also have the right to receive information in a form that they can understand, taking into account their age, education and mental capacity. Issues concerning the relationship between children and parents, wards and guardians are regulated by the Family Act (Article 88 on the child's informed consent to medical procedures).

Covid-19

In the context of the Covid-19 crisis, the Committee asked the States Parties to evaluate the adequacy of measures taken to limit the spread of virus in the population as well as the measures taken to treat the ill (under Article 11§3).

For the purposes of Article 11§1, the Committee considers information focused on measures taken to treat the ill (sufficient number of hospital beds, including intensive care units and equipment, and rapid deployment of sufficient numbers of medical personnel).

With regard to treating those who are ill, the report states that additional financial resources were made available for the so-called 'Covid-19 clinics' organised by health centres and 4 regional respiratory centres in hospitals have been additionally contracted.

The Committee recalls that during a pandemic, States Parties must take all necessary measures to treat those who fall ill, including ensuring the availability of a sufficient number of hospital beds, intensive care units and equipment. All possible measures must be taken to ensure that an adequate number of healthcare professionals are deployed (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

The Committee recalls that access to healthcare must be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone, and States must ensure that groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status are adequately protected by the healthcare measures put in place. Moreover, States must take specific, targeted measures to ensure enjoyment of the right to protection of health of those whose work (whether formal or informal) places them at particular risk of infection (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

During a pandemic, States must take all possible measures as referred to above in the shortest possible time, with the maximum use of financial, technical and human resources, and by all appropriate means both national and international in character, including international assistance and cooperation (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 11 - Right to protection of health

Paragraph 2 - Advisory and educational facilities

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

In its previous conclusion, the Committee found that the situation in Croatia was in conformity with Article 11§2 of the Charter, pending receipt of the information requested (Conclusions XX-2 (2013)).

Education and awareness raising

In its targeted questions, the Committee asked for information about health education (including sexual and reproductive health education) and related prevention strategies (including through empowerment that can serve as a factor in addressing self-harm conducts, eating disorders, alcohol and drug use) in the community, on a lifelong or ongoing basis, and in schools.

The Committee recalls it noted in its previous conclusion that since 1999, the Department for Health Promotion of the Croatian National Institute of Public Health has been responsible for the implementation of health promotion programmes (Conclusions XX-2 (2013)). The report indicates that the National Programme "Healthy Living" has been implemented under the supervision of the Ministry of Health and the National Institute of Public Health. This programme contains five components: (1) health education; (2) health and physical activity; (3) health and nutrition; (4) health and the workplace; and (5) health and the environment. The measures and activities undertaken in the framework of this Programme are focused on the improvement of physical, mental and sexual health of the entire population. The Committee takes note of the various activities carried out during the reference period in order to inform, educate and raise awareness among citizens of all ages of the positive aspects of healthy lifestyles (healthy nutrition, physical activity, promotion of sexual, reproductive and mental health, obesity prevention, decreasing overweight and morbidity from chronic non-communicable diseases, etc.). The report indicates that intersectoral bodies, government authorities and other institutions also take part in the implementation of this Programme.

The Committee takes note of the efforts made during the reporting period to improve the quality of addiction prevention programmes. The report provides an overview of all preventive activities carried out in the country by civil society organisations, educational and health care institutions.

The report indicates that, during the reference period, health education was carried out in educational institutions to promote health, healthy lifestyles, the prevention and adoption of healthy living habits through interdisciplinary work and the implementation of educational content in compulsory and optional courses, school prevention programmes and projects. In particular, the report indicates that the Addiction Prevention module was introduced to all age groups of school children and youth and was implemented at the universal level of addiction prevention in the school environment. It included topics related to the prevention of smoking, alcohol and drug abuse, modern forms of risky behaviours (gambling, betting), and road traffic (in particular, alcohol-related traffic accidents).

According to the report, in 2019, the Ministry of Science and Education adopted a curriculum on the cross-curricular topic of "Health in primary and secondary schools in the Republic of Croatia". This topic covers various areas, such as physical health, mental and social health,

reproductive health, dental hygiene, help and self-care. This module promotes the acquisition of knowledge and skills, and the development of positive attitudes towards health and healthy lifestyles so that pupils may achieve the desired physical, mental and social abilities.

The Committee takes note of various activities undertaken by other organisations in order to promote health education at schools: the Network of Healthy Cities and Healthy Countries, the Schools for Health European Network (SHE).

In its targeted questions, the Committee also asked for information about awareness-raising and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. In response, the report indicates that a pilot study on "Gender-Based Violence" was conducted in 2019 by Eurostat. According to the report, a survey on a nationally representative sample is expected to be conducted in 2021 (outside the reporting period) and will result in internationally comparable statistical indicators on gender-based violence against women. The report also indicates that lectures on hate crimes, including gender-based violence, sexual orientation and gender identity, are regularly included in professional courses and programmes for police officers at all levels. The Committee takes note of the detailed overview of the activities and training provided to police officers on this issue during the reporting period. The Committee asks that updated information be provided in the next report on the pilot study on gender-based violence.

Counselling and screening

In its previous conclusion, the Committee found that the situation in Croatia was in conformity with Article 11§2 with respect to counselling and screening services available to pregnant women and children (Conclusions XX-2 (2013)).

Conclusion

The Committee concludes that the situation in Croatia is in conformity with Article 11§2 of the 1961 Charter.

Article 11 - Right to protection of health

Paragraph 3 - Prevention of diseases and accidents

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

Therefore, it will focus on the Government's replies to the targeted questions, namely about healthcare services in prison; community-based mental health services; drug abuse prevention and harm reduction; healthy environment; immunisation and epidemiological monitoring; Covid-19; and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (namely, after 31 December 2019). In other words, the information referred to in the Covid-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

In its previous conclusion, the Committee concluded that the situation in Croatia was in conformity with Article 11§3 of the 1961 Charter (Conclusions 2013).

Healthcare services in places of detention

In a targeted question, the Committee asked for a general overview of healthcare services in places of detention, in particular prisons (under whose responsibility they operate/which ministry they report to, staffing levels and other resources, practical arrangements, medical screening on arrival, access to specialist care, prevention of communicable diseases, mental health-care provision, conditions of care in community-based establishments when necessary, etc.).

The report provides information regarding drug use in prison, that is assessed further below. The report does not otherwise provide information in response to the targeted question.

The Committee notes that in its report on its last visit to Croatia (2017), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) expressed a series of concerns, regarding among others the organisation of healthcare in prison, staffing levels, basic equipment, screening and reporting of injuries, confidentiality of medical examinations.

The Committee reiterates its request for a general overview of healthcare services in places of detention, in particular prisons (under whose responsibility they operate/which ministry they report to, staffing levels and other resources, practical arrangements, medical screening on arrival, access to specialist care, prevention of communicable diseases, mental health-care provision, conditions of care in community-based establishments when necessary etc.). The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Croatia is in conformity with Article 11§3 of the 1961 Charter.

Community-based mental health services

In a targeted question, the Committee asked for information regarding the availability and extent of community-based mental health services and on the transition to community-based mental health from former large-scale institutions. The Committee also asked for statistical information on outreach measures in connection with the mental health assessment of

vulnerable populations and on proactive measures adopted to ensure that persons in need of mental healthcare are not neglected.

The report refers to a twinning project on mental health implemented during the reference period, which concluded that it was necessary to reform the mental health sector by shifting focus from hospital settings to the community, based on multidisciplinary mobile teams providing home support. The report also describes a project carried out by public health authorities during the same period, on risk screening in the mental health of school children.

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, who visited Croatia in 2017, noted that the mental health system was still too focused on psychiatric hospitals, to the detriment of outpatient mental health services at the community level. Although deinstitutionalisation had been a key policy priority in Croatia, it mainly targeted the social welfare sector, with low participation by the health sector. The Special Rapporteur noted that although 600 persons moved out of residential institutions to community-based services as part of the deinstitutionalisation process by 2016, the same number of people moved in the other direction, from the community to long-stay psychiatric hospitals during the same period.

The European Semester report for 2020 stated that family and community based care for children and people with disabilities remained underdeveloped. In 2017, 72% of children and young adults without parents or adequate parental care lived outside institutional care, which is an improvement since 2010. The European Commission remarked that the shift away from a model based on institutional care requires the development of new and different services offered to the community. However, out of thirteen homes for children aged 6-18, only four had completed the transition to the new model of community-based care. Over 60% of people in other vulnerable groups, including children and young adults with behavioural problems and adults with mental disabilities, still lived in institutions in 2017.

The Committee further refers to the 2020 annual report of the Croatian Ombudsperson for Children, expressing concern about the insufficient number of mental health specialists working with children, the lack of psychological counselling for children outside large urban centres, as well as the overreliance on hospitalisation in the case of children with behavioural and mental health problems.

Consistent with the World Health Organisation (WHO) Comprehensive Mental Health Action Plan 2013-2030, and other relevant standards, the Committee considers that a human rights-compliant approach to mental health requires at a minimum the following elements: a) developing human rights-compliant mental health governance through, inter alia, mental health legislation and strategies that are in line with the Convention on the Rights of Persons with Disabilities and other relevant instruments, best practice and evidence; b) providing mental health in primary care community-based settings, including by replacing long-stay psychiatric hospitals with community-based non-specialised health settings; and c) implementing strategies for promotion and prevention in mental health, including campaigns to reduce stigmatisation, discrimination and human rights violations.

The Committee notes that Article 15§3 of the Revised Charter ordinarily provides an opportunity to examine the process of deinstitutionalization of persons with disabilities. As the 1961 Charter lacks a similar provision, the issue in question falls to be assessed under Article 11§3.

The Committee asks for information as follows:

- the number of fully and/or partially closed institutions, or the reduction in the number of beds in long-stay psychiatric hospitals; if a deinstitutionalisation strategy is in place, what the timeline is for the closure of all institutions;
- the alternatives that have been put in place: the type of community-based services, including access to personal assistance, housing options, and access to mainstream services, including employment and education;

- with regard to housing, to what extent people leaving institutions are able to choose where and with whom they would like to live, and whether they are obliged to access a particular living arrangement to access support;
- data on the number of people living in group housing (small group homes, family-type homes, etc.) after leaving institutions, disaggregated by age and impairment;
- how services are funded, how disability-related costs are funded, and how individuals are assessed for access to different support services and allowances;
- how the quality of community-based services is monitored, and how persons with disabilities and their representative organisations are involved in the delivery, monitoring or evaluation of community-based services.

The Committee further asks for information about mental healthcare services for children, in light of the above-mentioned observations.

Drug abuse prevention and harm reduction

In a targeted question, the Committee asked for information about drug-related deaths and transmission of infectious diseases among people who use or inject psychoactive substances both in the community and in custodial settings. The Committee also asked for an overview of the national policy designed to respond to substance use and related disorders (dissuasion, education, and public health-based harm reduction approaches, including use or availability of WHO listed essential medicines for opioid agonist treatment) while ensuring that the "available, accessible, acceptable and sufficient quality" criteria (WHO's 3AQ) are respected, subject always to the exigency of informed consent. This rules out, on the one hand, consent by constraint (such as in the case of acceptance of detox and other mandatory treatment in lieu of deprivation of liberty as punishment) and, on the other hand, consent based on insufficient, inaccurate or misleading information (i.e. not based on state of the art scientific evidence).

The report provides information on persons who use drugs in prisons and juvenile facilities, including a breakdown of numbers by year and type of addiction, and the number of individuals suffering from infectious diseases, indicating broadly positive or stable trends during the reference period. Opioid substitution treatment is available in prisons. The report also provides information on drug-related deaths and harm reduction measures available in the community, as well as on recovery and rehabilitation programs for persons who use drugs. During 2019, a draft National Strategy for Action in the Field of Addiction 2020-2029 and a joint draft Action Plan in the Field of Addiction 2020-2024, seeking to unite the various policy strands regarding addictions and behavioural addictions under one cover, have been completed.

The Committee asks for information on the implementation and impact in practice of the National Strategy for Action in the Field of Addiction 2020-2029.

Healthy environment

In a targeted question, the Committee asked for information on the measures taken to prevent exposure to air, water or other forms of environmental pollution, including proximity to active or decommissioned (but not properly isolated or decontaminated) industrial sites with contaminant or toxic emissions, leakages or outflows, including slow releases or transfers to the neighbouring environment, nuclear sites, mines, as well as on the measures taken to address the health problems of the populations affected, and to inform the public, including pupils and students, about general and local environmental problems.

The report focuses on the arrangements in place to measure and reduce air pollution in Croatia. Notably, in 2019, Croatia adopted an Air Pollution Control Program for the period 2020 to 2029. The report also describes the measures taken to inform the public about general environmental problems.

The European Semester report on Croatia for 2020 indicated that air pollution continued to have a significant impact on health. The European Environment Agency estimated that around 12.2 years of life lost per 1,000 inhabitants were attributable to exposure to fine particulate matter (PM2.5) – the main pollutant implicated in causing respiratory illness, cardiovascular disease, stroke and lung cancer – in Croatia for the year 2016, substantially above the European Union average of eight years.

The Committee notes that the report only partially addresses the issues raised in the targeted question. Therefore, the Committee reiterates the request in part, namely with regard to the measures taken to prevent exposure to water pollution and other forms of environmental pollution other than air pollution, including that resulting from industrial activities, measures taken to address the health problems of the population affected and improve access to information about the environment. Regarding air pollution, the Committee asks for comprehensive and up-to-date information to demonstrate the implementation of the legislation and regulations adopted in the area, by reference to relevant target values. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Croatia is in conformity with Article 11§3 of the 1961 Charter.

Immunisation and epidemiological monitoring

In a targeted question, the Committee asked States Parties to describe the measures taken to ensure that vaccine research is promoted, adequately funded and efficiently coordinated across public and private actors.

The report describes institutional arrangements in place to monitor and publicize the side effects of vaccination, as well as Croatia's involvement in cross-country European Union-led vaccine efficiency research projects.

Covid-19

In a targeted question, the Committee asked States Parties to evaluate the adequacy of measures taken to limit the spread of the Covid-19 virus in the population (testing and tracing, physical distancing and self-isolation, provision of surgical masks, disinfectant, etc.).

The report provides very limited information in that regard.

The Committee recalls that States Parties must take measures to prevent and limit the spread of the virus, including testing and tracing, physical distancing and self-isolation, the provision of adequate masks and disinfectant, as well as the imposition of quarantine and 'lockdown' arrangements. All such measures must be designed and implemented having regard to the current state of scientific knowledge and in accordance with relevant human rights standards (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020). Furthermore, access to healthcare must be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone, and that groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status must be adequately protected by the healthcare measures put in place (Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 13 - Right to social and medical assistance

Paragraph 1 - Adequate assistance for every person in need

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

The Committee notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

Therefore it will focus on the Government's replies to the targeted questions, namely about measures taken to ensure that the right to social and medical assistance is ensured and any previous deferrals or non-conformities.

The Committee wishes to point out that it will take note of the information provided in reply to the question relating to Covid-19 for information purposes only, as it relates to developments outside the reference period (namely, after 1 January 2020). In other words, the information referred to in the Covid-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

The previous conclusion (2013) considered that the situation in Croatia was not in conformity with Article 13§1 of the 1961 Charter on the grounds that: it had not been established that means of subsistence are guaranteed to persons in need, whose social assistance is withdrawn as penalty for having refused a job offer; the level of social assistance was manifestly inadequate; nationals of other States Parties are subject to an excessive length of residence requirement to be eligible for social assistance. It will therefore focus its consideration to the Government's replies to the targeted questions, as well as to the developments concerning the previous non-conformity and the questions asked in the former conclusion.

General legal framework, types of benefits and eligibility criteria

The Committee takes note of the activities and projects presented in the report, after the entry into force, on 24 March 2012, of the Social Welfare Act. The law prescribes the right to a guaranteed minimum benefit (GMB) as the right to an amount that ensures the basic living needs of a single person or a household that does not have sufficient funds to meet basic living needs. The basis on which the amount of GMB is calculated is determined by a decision of the Government of the Republic of Croatia, and it amounts to HRK 800.00 (€106.30) for a single person per month, while for a household it depends on the members. If a single person or a household earns income, the amount of GMB is determined as the difference between the amount of GMB and the average monthly income of a single person or household. The amount of GMB for a household cannot exceed the gross amount of the minimum salary in Croatia (the report states that in 2020, the minimum gross salary was set at HRK 4,062.51 (€543.07).

In addition to the basic financial assistance, the beneficiary can exercise the right to housing allowance recognised by the local self-government unit (LSGU), like the City of Zagreb.

According to this Law, if a working-age user of GMB is employed, GMB is maintained the first month, reduced by 25% in the second month and by 50% in the third month of work. The right is revoked if the person works for more than three months. Furthermore, a new right to benefit for an endangered energy purchaser has been introduced, which is recognized to a single person or a household that meets the criteria for acquiring the status of an endangered purchaser. The amount is up to HRK 200 (€ 26.57) per month.

Amendments to the Law have regulated the issue of revoking the right to GMB in case of refusal of the offered employment or retraining. In the following six months after the month in

which the right was revoked or reduced, the person is not entitled to apply for recognition of the right to GMB. According to the report, there were 97,492 persons benefitting of GMB in 2016 and 60,534 in 2020. The report states that the risk of poverty and social exclusion remains high, especially for certain groups of citizens: children, single-parent families, the elderly and people with disabilities. According to the official data, the at-risk-of-poverty rate decreased in 2018 by 0.7% compared to the previous year (2017), when it amounted to 20.0%. In 2018 783,179 persons in the Republic of Croatia lived at risk of poverty. Based on this information but the decrease by almost a 30% in access to the right to GMB, the Committee asks the next report to explain why there has been such an important decrease in the number of beneficiaries of the GMB.

The current Act also prescribes the right to a one-time benefit for a single person or household who is unable to meet basic living needs due to the birth or schooling of a child, illness or death of a family member, natural disasters and the like due to current financial difficulties. The total amount in one calendar year may not exceed for a single person HRK 2,500 (€ 331.98) or for a household HRK 3,500 (€ 464.77).

In its previous conclusion (Conclusions 2013), the Committee had noted that the report did not reply to the question of what means of subsistence remain available to those, whose social assistance is withdrawn as a penalty for having refused a job offer. It accordingly considered not established that the right to social assistance is effectively guaranteed to every person in need. The report explains that those whose right to GMB is revoked may receive a one-time benefit, but in very limited cases. The report further states that only that person loses the entitlement and not the other members of the household; the city or municipality may grant certain assistance in accordance with its own decision, as well as civil society organisations. However, only beneficiaries of the right to GMB are entitled to housing allowance recognized by the local self-government. Therefore, according to the information submitted, those whose rights are revoked do not have any other specific means of subsistence. The Committee therefore reiterates its conclusion and considers the situation not in conformity with the Charter in this respect.

Concerning medical assistance, the Committee previously noted that medical assistance is available under the compulsory insurance scheme only to persons who have acquired the status of an insured person according to the procedure and under the conditions prescribed by the law and general legal acts. In particular, persons without resources who are registered with the employment service are entitled to health assistance. The report refers to the emergency medical care for refugees and other aliens with international protection, who are legally in Croatia. An illegal alien can only receive emergency medical care if they are “caught” and to be returned or are at the Reception Centre for Aliens awaiting their return. It does not seem that any medical assistance is provided in case of need to people not covered by the general insurance scheme and not registered at the employment service. The Committee therefore considers that it has not been established that the right to medical assistance is effectively guaranteed to any person in need.

Levels of benefits

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to the MISSOC database (data up to 31 December 2019), the calculation basis of the GMB is HRK 800 (€107) since 8 October 2014. The amount of the GMB for a single person not capable of working is up to 115% of the base rate, i.e. HRK 920 and up to 100% of the base rate, so HRK 800 if the person was not in a condition to work (respectively €123 and €107 at the rate of 31 December 2019);
- Supplementary benefits: according to the report, a housing allowance can be granted, covering the costs of rent, utility-service fees, electricity, gas, heating, water and the sewer system. This assistance can be granted by units of local

and regional self-government or the City of Zagreb, for up to 50% of the monthly amount of the GMB (i.e.,€53.5 per month) at the discretion of the local government. Beneficiaries who use wood for heating can be granted 3m3 of wood once a year or a heating allowance covering the equivalent cost.

- Medical assistance: as stated above, only available to GMB recipients and others on low income.
- the Poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value was estimated at €304 per month in 2019.

In the light of the above information, the Committee considers that the level of social assistance is manifestly inadequate on the basis that the minimum assistance that can be obtained is not compatible with the poverty threshold.

Right of appeal and legal aid

The Committee notes that no targeted questions were asked as regards the right of appeal and legal aid. The Committee asks the next report to provide updated information on the right to appeal and legal aid.

Personal scope

The specific questions asked in relation to Article 13§1 this year do not include an assessment of assistance to nationals of States parties lawfully resident in the territory. Therefore, this particular issue will only be assessed if there was a request of information or a non-conformity in previous cycle.

Foreign nationals lawfully present in the territory

In its previous conclusions (Conclusions 2009 and 2013), the Committee held that the situation was not in conformity with Article 13§1 of the 1961 Charter insofar as nationals of other States Parties were subject to an excessive length of residence requirement (five years) to be eligible for social assistance. The report does not provide further information on access to social assistance and for medical emergency assistance. It states that, except for certain categories of aliens, residence is still required. The situation remains therefore not in conformity with the 1961 Charter.

Foreign nationals unlawfully present in the territory

The Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States to ensure that this right is made effective also in practice (European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

The report states that asylum seekers, asylees, victims of trafficking and other aliens under international protection are entitled to emergency medical care, and illegal aliens only if they are to be returned or at reception centres. The Committee concludes that the situation is not in conformity with the 1961 Charter as emergency social assistance for foreign national unlawfully present in the territory is not provided. The Committee asks that the next report provides detailed information about. this point

Medical and social assistance during the Covid-19 pandemic

The report states that given the crisis caused by Covid-19 in the social welfare system regarding the exercise of the right to cash benefits for persons without funds, there was no change. Namely, all those who met the conditions could continue to exercise this right under equal conditions. In addition to regular funds, the Government provided additional funds for

potentially new beneficiaries of guaranteed minimum benefit and one-time benefit due to coronavirus and earthquake in the City of Zagreb and its surroundings.

The Committee asks that the next report provide detailed information about specific measures taken as regards the Covid-19 pandemic.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 13§1 of the 1961 Charter on the grounds that:

- means of subsistence are not guaranteed to persons in need whose social assistance is withdrawn as penalty for having refused a job offer;
- it has not been established that the right to medical assistance is effectively guaranteed to any person in need;
- the level of social assistance is manifestly inadequate;
- nationals of other States Parties are subject to an excessive length of residence requirement to be eligible for social assistance.
- foreign nationals unlawfully present in the territory do not have a right to emergency social assistance.

Article 13 - Right to social and medical assistance

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in the current cycle.

Article 13 - Right to social and medical assistance

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee notes that no targeted questions were asked under this provision. As the previous conclusion found the situation to be in conformity there was no examination of the situation in the current cycle.

Article 13 - Right to social and medical assistance

Paragraph 4 - Specific emergency assistance for non-residents

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions, as well as, where applicable, previous conclusions of non-conformity or deferrals (see the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection"). However no targeted questions were posed in respect of Article 13§4. The Committee concluded in 2013 that the situation in Croatia was not in conformity with Article 13§4 of the 1961 Charter on the ground that it had not been established that all non-resident foreign nationals in need – whether legally present or in an irregular situation – are entitled to emergency medical and social assistance. It will therefore restrict its consideration to the Government's replies to its previous request for relevant complementary information.

The Committee also refers to the conclusions adopted in 2017 under Article 13§1 (personal scope) and recalls that Article 13§4 only covers emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

Finally, the Committee recalls that States Parties are required to provide non-resident foreigners, without resources, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, to cope with an urgent and serious state of need (without interpreting too narrowly the 'urgency' and 'seriousness' criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171). The Committee asks the next report to confirm that these requirements are met.

The Committee has considered in its conclusions in 2009, 2013 and 2021 under Article 13§1 that access to emergency social assistance to foreign nationals lawfully present in the territory is not guaranteed and that the situation is not in conformity with the 1961 Charter. The report states that foreign non-resident citizens in need, in accordance with applicable national regulations, are provided with health care. However, access to emergency social assistance is only available to citizens, residents or people under international protection. The Committee considers therefore that the situation remains not in conformity with the 1961 Charter.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 13§4 of the 1961 Charter on the ground that not all non-resident foreign nationals in need who are lawfully present in the territory are entitled to emergency social assistance.

Article 14 - The right to benefit from social welfare services

Paragraph 1 - Promotion or provision of social services

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

The Committee recalls that Article 14§1 guarantees the right to benefit from general social welfare services. It notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals.

Therefore, it will focus on the Government’s replies to the targeted questions, namely how and to what extent the operation of social services was maintained during the COVID-19 crisis and whether specific measures were taken in view of possible similar crises arising in the future. The Committee wishes to point out that it will take note of the information provided in reply to the question relating to COVID-19 for information purposes only, as it relates to developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the COVID-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

The Committee has deferred its previous conclusions (Conclusions XX-2 (2013)) pending receipt of information on following aspects:

- information on the implementation of the de-institutionalisation reform which was to introduce a new system of 10 basic social services and the possibility of using several services at the same time;
- fees for services provided by providers other than social welfare centres;
- statistics on the real extent of the discerned problem that in small towns and rural areas, there was a "huge need" for services of day care, prevention, rehabilitation and integration, most of the services being located in big cities.

The report provides that EU funds have funded projects of social service providers to support the process of deinstitutionalization of the social welfare system and the development of social services in the community. For this purpose, in the reference period, the European Social Fund (ESF) contracted 16 projects for the development of social services in the community to implement the process of deinstitutionalization of children and youth without adequate parental care and children and youth with behavioural problems The ESF tender to develop, expand and improve the quality of non-institutional social services in support of the deinstitutionalisation process was announced in May 2020 and contracting is ongoing. Also, the European Regional Development Fund (ERDF) provided funds for the development of infrastructure for the provision of social services in the community to support the deinstitutionalization process. In May 2019, a call for project proposals (grants) was opened within the ERDF framework with the aim of supporting the process of deinstitutionalization by investing in infrastructure and equipment of social care centres and other social service providers, and so far 6 decisions on financial envelopes have been made to finance 40 projects. The Committee notes that the process is ongoing and request the next report to provide information on the developments and on the impact of the reform. It asks, in particular, for a comprehensive description of how the new system operates, i.e. what are the rules on the use of services and what services are included within the scope of "basic social services" . Meanwhile, it reserves its position on this point.

The report does not provide information on the fees for services provided by providers other than social welfare centres, which the Committee has been requesting since 2009 (Conclusions XIX-2). It thus reiterates its question and meanwhile considers that it has not been established that an effective and equal access to social services is guaranteed.

The report does not provide information on geographical distribution of social services, in the light of the problem of insufficient services in rural areas. The Committee thus repeats its request for information and indicates that if the information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the 1961 Charter in this regard.

In reply to the targeted question, the report does not state explicitly whether provision of social services continued without interruption during the COVID-19 pandemic, however, it confirms that continuity in the provision of these services was ensured for people with disabilities in the entire Republic of Croatia. The report further lists in detail financial support provided to civil society organizations, state administration bodies, offices and bodies of the Government of the Republic of Croatia, state administrative organizations, public agencies, public foundations, institutes and other public institutions in the field of social activities during the pandemic and in general. The report does not contain information on any measures taken in anticipation of similar crises in the future.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 14§1 of the 1961 Charter on the ground that it has not been established that there is an effective and equal access to social services.

Article 14 - The right to benefit from social welfare services

Paragraph 2 - Public participation in the establishment and maintenance of social services

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

The Committee recalls that Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services. The “individuals and voluntary or other organisations” referred to in paragraph 2 include the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms.

The Committee further notes that for the purposes of the current examination, States were asked to reply to the specific targeted questions posed to States in relation to this provision (questions included in the appendix to the letter of 3 June 2020, in which the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the scope of the thematic group “Health, social security and social protection”) as well as previous conclusions of non-conformity or deferrals. States were therefore requested to provide information on user involvement in social services (“co-production”), in particular on how such involvement is ensured and promoted in legislation, in budget allocations and decision-making at all levels, as well as in the design and delivery of services in practice. Co-production is understood here to mean that social services work together with users of the services on the basis of fundamental principles, such as equality, diversity, accessibility and reciprocity.

The Committee deferred its previous conclusion (Conclusions XIX-2 (20173)). asking more information to be provided about the situation in which a "deficit" particularly in day care, in house care and assistance has been reported. The Committee noted that the State had been financing the civil society sector to develop new social services, but due to the economic crisis, the funding available was not sufficient.

The report provides in reply extensive information on public participation in the establishment and maintenance of social services, setting out in detail the funds allocated for the area of social activity at the level of all public providers in the Republic of Croatia. The report points to a wide range of public sources of funding that include funds from the original state budget, as well as of revenues from games of chance, funds from environmental protection, part of revenues from the Croatian National Television fee, budgets of local and regional self-government units, revenues of public companies owned by the Republic of Croatia or owned by one or more local and regional self-government units, revenues of the tourist board, revenues of public higher education institutions, revenues of public institutions and foundations, revenues of port authorities and revenues from fees for the use of public roads. The Committee asks the next report to clarify whether the allocated funds enabled to solve the problem of deficit in day care, in-house care and assistance and whether new social services have been satisfactorily developed.

The report does not reply to the targeted question on the user involvement in social services. The Committee recalls its request and asks the comprehensive information to be provided in the next report, in particular, on how the user involvement is fostered in legislation and other decision-making, and whether any practical measures to support it, including budgetary, have been adopted or envisaged.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.