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# EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-2 (2021)

# CZECH REPUBLIC

*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 the Czech Republic, which ratified the 1961 European Social Charter on 3 November 1999. The deadline for submitting the 18th report was 31 December 2020 and the Czech Republic submitted it on 10 December 2020.

The Committee recalls that the Czech Republic 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.

Comments on the 18th report submitted jointly by Forum for Human Rights, Validity Foundation and Inclusion Czech Republic were registered on 1 July 2021. Comments submitted by Forum for Human Rights were registered on 1 July 2021. The reply from the Government to these comments was registered on 25 August 2021.

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).

The Czech Republic has accepted all provisions from the above-mentioned group.

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

The conclusions relating to the Czech Republic concern 15 situations and are as follows:

– 5 conclusions of conformity: Articles 3§1, 12§2, 12§3, 13§3 and 14§2.

– 4 conclusions of non-conformity: Articles 12§1, 13§1, 14§1 and 23.

In respect of the other six situations related to Articles 3§2, 11§1, 11§2, 11§3, 12§4 and 13§1, 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 the Czech Republic under the 1961 Charter.

The next report to be submitted by the Czech Republic 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 3 - Right to safe and healthy working conditions

*Paragraph 1 - Safety and health regulations*

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 3§1 of the 1961 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, pending receipt of the requested information, the Committee concluded that the situation in the Czech Republic was in conformity with Article 3§1 of the 1961 Charter (Conclusions XX-2 (2013)). The assessment of the Committee will therefore only concern the information provided by the Government in response to the targeted question.

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.

### *Content of the regulations on health and safety at work*

In its targeted question on Article 3§1, the Committee asked for detailed information on the regulatory responses adopted to improve occupational safety and health in connection with known and also evolving or new situations such as in the digital and platform economy by, for example, strictly limiting and regulating electronic monitoring of workers, by recognising a right to disconnect, right to be unavailable outside agreed working and standby time, mandatory digital disconnection from the work environment during rest periods. It also requested information on regulations adopted in response to emerging occupational risks.

In response, the report states that on 29 October 2018 an amendment to the Government Decree No. 361/2007 Coll., which lays down the conditions for the protection of health at work, came into force. Also, Act on Specific Health Services was amended (last amendment No. 202/2017 Coll.) and the amendment came into force on 1 November 2017. This amendment sets out the rules concerning the issue of medical opinion, examination of the medical opinion by the relevant administrative body, terms and conditions applicable for extracts from medical opinion, definitions of occupational health service providers, occupational health service documentation, conditions for assessment and recognition of occupational diseases.

The report further states that the area of occupational hygiene and occupational medicine does not focus on burnout, post-traumatic stress disorder, injuries in the sports entertainment sector. However, psychological stress as a risk factor of the working environment is defined in Section 31 of the Government Decree No. 361/2007 Coll., which determines that work under psychological stress is work associated with monotony, at an imposed working space, in continuous shifts or patterns and with work performed during the night. The issues of harassment at work, stress, prohibition and regulation of electronic monitoring of employees are contained in Act No. 262/2006 Coll., Act No. 198/2009 Coll. and the Anti-Discrimination Act. The report states as an example that a person can seek damages for health caused by the actions of his or her superior or other employee, and the employer is responsible for such damages. Moreover, the employer has an obligation to ensure the protection of occupational safety and health of employees with regard to risks of

possible danger to their lives and health related to work. The employer must ensure a safe working environment and conditions and take measures to prevent and other risks are prevented by strict adherence to working hours and workload and by prevention and control by the State labour Inspection Office.

In connection with the adoption of the General Data Protection Regulation on 5 May 2018, the rules for monitoring of employees were strengthened. There is an obligation to inform employees about the scope and purpose of processing personal data, about how the data will be processed and about who will have access to that data and how. An independent Data Protection Officer has to monitor the proper handling of personal data and to report possible data leaks or breaches of the law.

The report states that no new legislation was adopted during the reference period to ensure occupational safety and health in connection with evolving or new situations.

The Covid-19 pandemic has changed the way many people work, and many workers now telework or work remotely. Teleworking or remote working may lead to excessive working hours.

The Committee considers that, consistent with States Parties' obligations in terms of Article 3§1, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to enable fully the right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the "right to disconnect").

States Parties should ensure there is a legal right not to be penalised or discriminated against for refusing to undertake work outside normal working hours. States must also ensure that there is a legal right to protection from victimisation for complaining when an employer expressly or implicitly requires work to be carried out outside working hours. States Parties must ensure that employers have a duty to put in place arrangements to limit or discourage unaccounted for out-of-hours work, especially for categories of workers who may feel pressed to overperform (e.g. those during probationary periods or for those on temporary or precarious contracts).

Being connected outside normal working hours also increases the risk of electronic monitoring of workers during such periods, which is facilitated by technical devices and software. This can further blur the boundaries between work and private life and may have implications for the physical and mental health of workers.

Therefore, the Committee considers that States Parties must take measures to limit and regulate the electronic monitoring of workers.

***Protection against hazardous substances and agents***

The Committee previously found the situation to be in conformity in this respect (Conclusions XX-2 (2013)).

The report provides certain information on exposure limit values for certain chemicals which have been adjusted in accordance with the EU legislation.

The Committee asks the next report to provide full and updated information with respect to the legal framework relating to the protection of workers against ionising radiation.

***Personal scope of the regulations***

The Committee previously found the situation to be in conformity in this respect (Conclusions XX-2 (2013)).

***Covid-19***

In the context of the Covid-19 crisis, the Committee recalls that it requested information in the targeted questions under Article 3§1 of the 1961 Charter on the protection of frontline workers.

In response, the report states that social workers have been provided with personal protective equipment: face masks/respirators, hand sanitizers. Also, a set of best practices in providing care services in connection with Covid-19 was developed, and it involves categorisation of clients, obligation for the clients to wear face masks, providing information on how to act when diagnosed with Covid-19 or when contact with a person who is Covid-19 positive was established, ventilating the home of the client, dividing working teams, minimisation of the use of public transport, regular disinfection of premises and vehicles. Certain social services were gradually closed due to Covid-19 but social services' students were used and they were reimbursed.

As regards healthcare staff, recommendations for safe working procedures were issued and involved wearing face masks/respirators. Spaces were designated to the provision of health services to patients with suspected or confirmed Covid-19 disease in healthcare facilities. The need and allocation of personal protective equipment was planned. Also, recommendations related to provision of healthcare in inpatient facilities, home healthcare providers, waiting rooms and offices of general practitioners for children and adolescents were issued. It became possible for healthcare workers to use a free telephone line for psychological support. The information prepared by the EU Agency for Safety and Health at Work was used, as well as the guidelines of the Ministry of Health on the preparation of the workplace for Covid-19.

As regards funerary services staff, the persons working in this sector were identified as frontline workers and they were entitled to priority supplies of face masks/respirators and other personal protective equipment.

As regards prison and other custodial staff, measures taken to protect the staff were also taken to protect health of prisoners. The authorities mapped available resources of the Prison Service and mobilised the capacities for the production of protective aids for staff and prisoners. The frequency of the disinfection of premises and means of transport was increased. If persons did not use respiratory protection or had increased body temperature, they were not allowed to enter the prisons and other custodial facilities. For the employees, remote work was used as much as possible and in some cases, they could use a company car to go to work.

As regards military personnel, all deployed personnel were equipped with protective equipment according to the degree of risk involved in the work carried out on the basis of the recommendations of the World Health Organisation and the Ministry of Health. The Czech Army and the Fire Rescue Service provided decontamination equipment before and after activities with a high risk of transmission of Covid-19.

As regards public transport workers, the main measure was minimising the contact between the employees and the passengers.

As regards members of the Police, Fire Rescue Service, employees of the Refugee Facilities Administration and other cooperating units, the services and activities that were not absolutely necessary at the workplace were provided from home offices using secure remote access. Methodologies, recommendations, procedures and guidelines related to Covid-19 were issued. The Refugee Facilities Administration introduced measurements of body temperature before entering the workplace and home office where possible, increased hygienic measures. The employees of the Refugee Facilities Administration were equipped with personal protective equipment. Quarantine premises were built in several detention facilities.

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in the Czech Republic is in conformity with Article 3§1 of the 1961 Charter.

**Article 3 - Right to safe and healthy working conditions**

*Paragraph 2 - Enforcement of safety and health regulations*

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

The Committee recalls that for the purposes of the present report States were asked to reply to targeted questions for Article 3§2 of the 1961 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 (Conclusions XX-2 (2013)), the Committee concluded that the situation in the Czech Republic was in conformity with Article 3§2 of the 1961 Charter.

Assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

***Accidents at work and occupational diseases***

The Committee previously examined (Conclusions XX-2 (2013)) the situation regarding accidents at work and occupational diseases. It considered that the figures concerning the numbers and standardised incidence rates of fatal and non-fatal accidents at work were very close to the estimated average numbers and rates of the EU member states in the same period, and, that the situation was in conformity with Article 3§2 of the 1961 Charter on this point. The targeted questions with regards to accidents at work and occupational diseases concerned statistical data on prevalence of work-related death, injury and disability as well as on epidemiological studies conducted to assess the long(er)-term health impact of new high-risk jobs, and also as regards the victims of harassment at work and poor management.

In reply to the targeted questions raised by the Committee, the report shows a slight decrease in the total number of occupational accidents during the reference period: from 45,116 in 2017 to 43,517 in 2019. Concerning specifically fatal accidents at work, after an increase between 2017 and 2018 (from 96 to 103), the number of such accidents decreased in 2019 (95 cases). These figures are lower compared to the previous reference period (135 cases in 2010). In addition, the report indicates a decrease in the number of accidents requiring hospitalisation for more than five days (from 1,138 in 2017 and 1,130 in 2018 to 1,006 in 2019) and in the number of accidents which resulted in the affected employee’s temporary incapacity for work for more than 3 calendar days (from 43,882 in 2017 to 42,416 in 2019).

The EUROSTAT data indicates, concerning accidents at work resulting in the incapacity for work of the employee for more than 4 calendar days, that there was a slight decrease in the numbers between 2017 and 2018 (from 38,440 in 2017 to 37,530 in 2018) and an increase between 2018 and 2019 (from 37,530 in 2018 to 41,152 in 2019). The incidence rates of such accidents remain well below the EU-27 average (in 2018, 948.68 in the Czech Republic and 1768.93 in the EU and in 2017, 884.24 in the Czech Republic and 1800.96 in the EU). As to fatal accidents, the EUROSTAT data confirms, although with different figures, the trend concerning such accidents: increase between 2017 and 2018 and decrease between 2018 and 2019 (83 in 2017, 92 in 2018 and 91 in 2019). The standardised incidence rates of fatal accidents at work are very close to the average rates in the EU (in 2018, 2.85 in the Czech Republic and 2.21 in the EU; in 2017, 2.1 in the Czech Republic and 2.25 in the EU).

The report does not provide any statistical data as regards work-related suicide or other forms of self-harm, PTSD, burn-out and alcohol and other substance use disorders, nor on epidemiological studies conducted to assess long(er)-term health impact of new high-risk

jobs (e.g. cycle delivery services, including those employed or whose work is managed through digital platform; performers in the sport entertainment industry, including in particular contact sports; jobs involving particular forms of interaction with clients and expected to use potentially harmful substances such as alcohol or other psychoactive products; new forms of high-yield high-stress trading; military and law enforcement; etc.) and as regards the victims of harassment at work and poor management. The Committee reiterates its request in this respect and considers that if the requested information is not provided in the next report, there will be nothing to establish that accidents at work and occupational diseases are monitored effectively in practice.

***Activities of the Labour Inspectorate***

The Committee previously examined (Conclusions XX-2 (2013)) the situation regarding the activities of the Labour Inspectorate and concluded that the situation was in conformity with Article 3§2 of the 1961 Charter on this point. The targeted questions with regard to the activities of the Labour Inspectorate concerned the organisation of the Labour Inspectorate, and the trends in resources allocated to labour inspection services, including human resources; number of health and safety inspection visits by the Labour Inspectorate and the proportion of workers and companies covered by the inspections, as well as the number of breaches to health and safety regulations and the nature and type of sanctions; whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors.

In reply to the targeted questions raised by the Committee, the report indicates that Act No. 251/2005 on Labour Inspection establishes the State Labour Inspection Office (SLIO) and eight regional labour inspectorates which are responsible for labour inspections in the Czech Republic. According to the report, as of 31 July 2019, there were 5,540 occupational safety inspections. It is stated that the current occurrence of the COVID-19 pandemic had an impact on the number of performed and completed occupational safety inspections.

In reply to the targeted question on whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors, the report indicates that the SLIO carries out inspections of legal and natural persons' business activities in accordance with the Labour Inspection Act. According to Section 7 of the Inspection Act No. 255/2012, the inspector is entitled to access buildings, means of transport, land parcels and other premises, with the exception of dwellings which are owned or used by the inspected person. The inspector is entitled to enter the dwelling only if the dwelling is used for business or other economic activity or if the inspection is to remove doubts as to whether the dwelling is used for these purposes and if the purpose of the inspection cannot be achieved otherwise. Owners or users of such premises shall allow the inspector to enter these premisses.

According to ILOSTAT data, the number of labour inspection visits remained stable during the reference period (29,415 in 2017 and 29,454 in 2019). The data indicates an increase in the number of labour inspectors (from 509 in 2017 to 522 in 2019). The number of inspectors per 10,000 employees did not change during the reference period (1 inspector per 10,000 employees during the reference period).

The report does not provide information concerning the targeted question on the budgetary resources of the Labour Inspectorate, nor on the number of inspection visits for each year of the reference period and the proportion of workers and companies covered by the inspections. The report does not provide information on the number of breaches to health and safety regulations and type of sanctions. The Committee therefore reiterates its request for information in these regards. It considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 3§2 of the 1961 Charter.

*Conclusion*

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

### Article 3 - Right to safe and healthy working conditions

*Paragraph 3 - Consultation with employers' and workers' organisations on safety and health issues*

The Committee notes that no targeted questions were asked under Article 3§3 of the 1961 Charter. As the previous conclusion found the situation in Czech Republic to be in conformity with the Charter, there was no examination of the situation in 2021.

## 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 the Czech Republic. It also takes note of the comments submitted jointly by Forum for Human Rights, Validity Foundation and Inclusion Czech Republic on 1 July 2021, of the comments submitted by Forum for Human Rights on the same date, and of the comments in response submitted by the Czech Government on 25 August 2021.

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 the Czech Republic 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 a targeted question for this cycle, the Committee asked for overall and disaggregated statistical data on life expectancy across the country and different population groups (urban; rural; distinct ethnic groups and minorities; longer term homeless or unemployed; etc.) identifying anomalous situation (e.g. particular areas in the community; specific professions or jobs; proximity to active or decommissioned industrial or highly contaminated sites or mines; etc.) and on prevalence of particular diseases among relevant groups (e.g. cancer) or blood borne infectious diseases (e.g. new cases HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison; etc.).

The report states that the Czech Republic does not keep comprehensive and disaggregated statistical data according to required criteria (average life expectancy in cities, in the countryside, by ethnicity and minority; homeless or unemployed persons, by profession, workplace, etc.). The report provides detailed statistical data on the incidence of HIV and hepatitis.

The Committee notes from World Bank data that life expectancy at birth (average for both sexes) in the Czech Republic was 79 years in 2019 (compared to 78.5 years in 2015). According to Eurostat, the average life expectancy at birth in the EU-27 was estimated at 81.3 years in 2019.

The Committee notes from another source that, on average, women live nearly six years longer than men (76.1 compared to 82 years in 2017). There are also substantial regional variations in life expectancy, with the capital region of Prague registering life expectancy that is nearly four years higher than the worst performing regions Moravskoslezský and Severozápad. In fact, life expectancy in Prague (80.8 years in 2017) was similar to the EU average (*Czechia: Country Health Profile 2019*, by OECD, European Observatory on Health Systems and Policies and the European Commission). The same source indicates that in addition to regional disparities, inequalities across educational levels are substantial. Men

with low levels of education live on average 11 years less than those with a tertiary education. The education gap is much smaller for women (3 years), and below the EU average of 4.1 years. The results relate to the higher prevalence of risk factors among those with lower education as well as unemployment and eroding accessibility to health services in some areas (European Commission, 2019). The Committee asks for information in the next report on measures taken to reduce such differences/gaps in life expectancy.

***Access to healthcare***

In a targeted question, the Committee asked 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 indicates that the Commission for Reproductive Medicine has been established at the Ministry of Health. The report further provides information on assisted reproduction, which is covered by health insurance under certain conditions until the woman reaches the age of 39. The report indicates that the Institute of Health Information and Statistics (IHIS) manages the National Register of Reproductive Health, which is part of the NHIS (National Health Information System).

The Committee asks for information on the measures taken to ensure that women and girls have access to modern contraception. It also asks for 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).

With regard to abortion, the report indicates that a woman's pregnancy is artificially terminated (aborted) if she so requests in writing, if the pregnancy does not exceed twelve weeks and if her health condition allows. A woman's pregnancy may be terminated for medical reasons with her consent or on her initiative if her life or health or the healthy development of the foetus is endangered or if the foetus's development is genetically defective. Abortion is regulated by Act No 66/1986 Coll., on abortion, and the Implementing Decree No 75/1986 Coll., which implements said Act.

The Committee asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part.

With regard to early motherhood, the report indicates that the Ministry of Heath has initiated a program in which the priority "Increasing health literacy" is announced for 2020 (outside the reference period), which includes the activity "Education aimed at raising awareness of young adults about reproductive health with a focus on early parenthood". The report does not provide statistical data about early motherhood. The Committee reiterates its request.

The report provides detailed information on perinatology, neonatal and maternal health, in particular on the concept of "Midwifery Centre" which is based on the principle of cooperation between the gynaecological – obstetric and neonatological parts of the health service provider in order to improve the healthcare of mother and new born.

The Committee notes that according to Eurostat, the infant mortality rate (number of infant deaths per 1,000 live births) stood at 2.6 in 2018 and 2019 (as compared to 2.5 in 2015 and 2.7 in 2010) which is below the EU–27 average of 3.4 infant deaths per 1,000 live births in 2019.

As regards the maternal mortality rate, the Committee notes that according to the World Bank data, it has decreased during the reference period: from 4 deaths per 100,000 live births in 2016 to 3 deaths in 2017 (latest available data). In the previous reference periods the rate stood at 4 deaths per 100,000 live births (in 2015 and 2010). The Committee notes that the EU average rate stood at 6 deaths per 100,000 live births in 2016 and 2017 (latest available data).

The Committee asks that the next report contain information on the public health expenditure as a share of GDP.

As regards the right to protection of health of transgender persons, by its decision on the merits of the complaint No. 117/2015, the Committee found that the requirement that transgender persons undergo certain medical interventions, including medical sterilisation, as a condition of legal gender recognition is in violation of Article 11 of the Charter (see Transgender Europe and ILGA-Europe v. the Czech Republic, complaint No. 117/2015, decision on the merits of 18 May 2018). The Committee held that gender reassignment surgery as required in the Czech Republic for a change of gender identity is not necessary for the protection of health. Obliging an individual to undergo such serious surgery, which could in fact be harmful to health, cannot be considered as being consistent with the obligation that the State refrain from interfering with the enjoyment of the right to health and in such cases States must eliminate the interference. Any kind of medical treatment which is not necessary can be considered as contrary to Article 11, if obtaining access to another right is contingent upon undergoing it. The condition attached to the recognition of a transgender person's gender identity vitiates free consent, and therefore such a requirement violates physical integrity, operates contrary to the notion of human dignity and, consequently, cannot be considered as compatible with the right to protection of health as guaranteed by Article 11§1 of the Charter.

The measures taken by the Czech Republic to remedy the violations found will be assessed in the framework of the follow-up to collective complaints (see Resolution CM/ResChS(2018)9, Transgender Europe and ILGA-Europe v. the Czech Republic Complaint No. 117/2015, adopted by the Committee of Ministers on 24 October 2018at the 1328th meeting of the Ministers' Deputies and its Appendix).

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).

According to the national report, health laws provide for equal access to healthcare for all persons without discrimination. Under Health Services Act No. 372/2011 Coll., health services can be provided only on the basis of the patient's free and informed consent (cases of providing health services without consent are provided for by law).

The Committee takes note of the comments received from the Forum for Human Rights which refer to a report published by the Ombudsman's Office in 2019, regarding the practice of institutional forensic treatment in psychiatric hospitals. In the said report, the Ombudsman stressed that some measures of interference with the patients' rights lack any legal basis and result in ambiguities in the practice of the treatment without the patient's consent. The same report argues that Czech law does not include procedural safeguards applicable in case the patient actively rejects the proposed treatment, thus the patient has no legal measures to object to the ordered treatment. Furthermore, there is no effective monitoring in this regard.

The Committee also notes the comments provided by Forum for Human Rights, Validity Foundation and Inclusion Czech Republic with regard to substitute decision making in the field of healthcare and reproductive health. The comments stress that the restriction of legal capacity also concerns the right to informed consent in healthcare. The Health Care Act provides for a possibility to restrict one's capacity to give informed consent and make independent decisions about their healthcare decisions. The same comments draw the attention to the failure to provide accessible information about health, healthcare treatment and procedures in an accessible language for people with intellectual and psychosocial disabilities which creates obstacles in the provision of health services with their free and informed consent.

In response to these comments, the Government indicates that limitation of legal capacity is considered as an *ultima ratio* measure and may be taken only for the benefit of the person

and only if all other less restrictive measures (such as assistance in decision making, representation by a household member, guardianship of a person without limiting the legal capacity of that person) are unable to guarantee the safety of the person. Regarding the issue of consent to medical treatment, the Government states that if the person's legal capacity is limited by the Court in this area, his/her opinion must be considered and respected as much as possible (Act No. 372/2011 Coll., Section 35).

The Committee asks for information on the remedies available for the patient in case of refusal/rejection of a proposed treatment. It also asks for measures taken in order that the person receives all the information/explanation about what the treatment involves, including the benefits and risks, whether there are reasonable alternative treatments, and to provide such information in an accessible language, including for persons with intellectual and psychosocial disabilities.

***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).

The report indicates that the Czech Republic does not have a study evaluating the adequacy of the measures taken to limit the spread of the virus in the population and other measures taken in connection with the Covid-19 crisis. The report indicates that an evaluation of the measures in question would be carried out once the Covid-19 crisis was over.

The report mentions that some individual councils of large cities took measures to protect homeless people (including foreigners without a residence permit in the Czech Republic). For example, the City of Prague has set aside accommodation capacity for selected hotels for people living in the streets (for a period of three months), so as to reduce the risk of transmitting Covid-19.

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 the Czech Republic.

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 with respect to 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 the Czech Republic was in conformity with Article 11§2 of the Charter, pending receipt of the requested information (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 takes note of the results of population-based studies on drug use and smoking. According to the report, the prevalence of illicit drug use is highest among young adults under the age of 35, while psychoactive substances are most common in the over-35 age group. The current results of school studies confirm the decline in the prevalence of tobacco smoking, alcohol and illicit drug use among children and young people whereas there is a marked increase in the number of young people experiencing addictive substances between the ages of 16 and 18.

The Committee asks that information be provided in the next report about 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. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in the Czech Republic is in conformity with Article 11§2 of the Charter in this respect.

As regards sexual and reproductive health education, the report indicates that the reproductive health agenda follows on from the Government Strategy for Gender Equality for the 2014–2020 period. The report states that a Family Policy Concept was adopted by the Government Resolution No. 654 of 18 September 2017.

However, the report does not provide any information regarding sexual and reproductive health education in schools. Therefore, the Committee reiterates its question. It asks in particular whether and how sexual and reproductive education is provided in schools.

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. The report does not contain any information in this respect. Therefore, the Committee reiterates its question. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in the Czech Republic is in conformity with Article 11§2 of the Charter in this respect.

***Counselling and screening***

In its previous conclusion, the Committee found that the situation in the Czech Republic was in conformity with Article 11§2 with respect to counselling and screening services available to pregnant women and children (Conclusions XX-2 (2013)). In its previous conclusion, the Committee asked to be informed of progress in the implementation and results of regulations on preventive medical examinations. It also asked to specify which population groups were entitled to preventive examinations, the type of diseases which were screened and the frequency of such examinations in figures. As regards free health checks for children, the Committee asked what institutions were responsible for undertaking these medical examinations, their organisation and the proportion of pupils covered by them, distinguishing between urban and rural areas. The Committee reiterates all its questions.

As regards HIV/AIDS and viral hepatitis C, the report indicates that their diagnosis, prevention and treatment are governed by the Methodical Guidelines of the Ministry of Health of December 2016 and the Recommended Procedure for Care of HIV-Infected Adults issued by the Society of Infectious Medicine of the Czech Medical Association JEP of June 2019. The Committee notes from the report that care for HIV/AIDS patients is provided in eight regional centres and is fully covered by the health insurance companies. Treatment begins immediately after the diagnosis of HIV infection and is available to all insured HIV-positive people.

The report states that in April 2018, the Society of Infectious Medicine published a Procedure for the Provision of Pre-exposure Prophylaxis (PrEP), which recommended the preventive administration of antiretroviral drugs to individuals at high risk of contracting HIV infection. The Committee observes that, according to the report, there has been a significant reduction in the price of the medicinal product for PrEP, which is not covered by health insurance and therefore, is difficult for patients to obtain.

The report indicates that even the poor and homeless have access to health care. Since 2019, the Ministry of Health has been implementing the project “Expanding Access and Creating Healthcare Opportunities for the Homeless” (abbreviated as “Doctor’s Office for the Homeless”) aimed at people living on the streets who are at risk of losing their refuge or living in socially excluded communities. Its main purpose is to provide medical assistance to target groups who do not seek medical and social care and who do not participate in preventive check-ups and programmes.

With regard to measures against pseudoscience, the report states that the provision of medical care is only possible on the basis of an authorisation given under the Health Service Act and that the provision of medical care is subject to very strict conditions that must be met by the provider.

*Conclusion*

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

## 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 the Czech Republic. It also takes note of the comments submitted jointly by Forum for Human Rights, Validity Foundation and Inclusion Czech Republic, of the comments submitted by Forum for Human Rights, and of the comments in response submitted by the Czech Government.

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 the Czech Republic 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 notes that healthcare provision is based on the general principle of equivalence between prison and the wider community. The report further notes that access to healthcare in prison is subject to the possibilities of the Prison Service to personally and materially provide specialised medical care to the extent required by applicable health legislation and taking into account the availability of non-prison health service providers. Prison healthcare is dispensed in medical centres located in each prison and two inpatient medical facilities for specialist treatment. The prison system provides counselling and screening for blood-borne diseases, including HIV/AIDS.

### *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 provides information about various activities aimed at reforming the structure of mental healthcare in the Czech Republic, with a focus on developing community-based

services. Steering groups established at regional level have implemented joint planning and management activities. A network of community-based mental healthcare centres, tasked with connecting with acute psychiatric care and working towards reducing the length of psychiatric hospitalisation, is being developed. The process of reducing the number of beds in psychiatric hospitals is underway. The report provides provisional results from two mental healthcare reform projects, on destigmatisation and on early intervention in serious mental illness, that are currently being implemented.

The report notes that work is ongoing on improving the standards of care in psychiatric hospitals and other mental health services, with assistance from the World Health Organisation (WHO), through the Quality Rights Initiative. The report further indicates that training modules have been developed on preventing the use of restraints and the use of alternative approaches to de-escalation of crisis situations.

The Committee notes that the systematic study mentioned in the report and developed with assistance from the WHO, concerning the quality of care and adherence to the Convention on the Rights of Persons with Disabilities in Czech psychiatric hospitals, revealed serious shortages in relation to almost all themes listed in the WHO Quality Rights Toolkit, including unsatisfactory state of buildings, the lack of qualified and thoroughly trained staff, insufficient support for service users' decisions and preferences, and insufficient emphasis on service users' integration into society (P. Winkler and ors, *Adherence to the Convention on the Rights of People with Disabilities in Czech Psychiatric Hospitals: A Nationwide Evaluation Study*, Health and Human Rights Journal, Volume 22/1, June 2020, pp 21 – 34).

The comments provided by the Forum for Human Rights, Validity Foundation and Inclusion Czech Republic are divided in three categories. First, the NGO comments refer to the over-reliance on restraints in psychiatric facilities. The Committee reserves its position on this matter, seeing that collective complaint proceedings with the same object are currently under examination (complaint no. 188/2019). The comments also refer to certain deficiencies in the legal definitions of torture and other ill-treatment, hindering the prosecution of abuses that take place in psychiatric and social care facilities; the inadequate manner in which ill-treatment is documented by medical practitioners; and the lack of effective supervision over the legality of detention and detention conditions in such facilities.

Second, the comments note the slow pace of the deinstitutionalisation process, as evidenced by the failure to develop support services for living in the community, as well as by certain governmental initiatives to allocate preferential funding for institutional services, and poor data collection practices. Third, the comments note the ongoing reliance on substitute decision-making in the field of healthcare and reproductive health, aspects that are examined under Article 11§1 of the 1961 Charter.

The comments received from the Forum for Human Rights highlight a report published by the Ombudsman's Office in 2019, regarding the practice of institutional forensic treatment in psychiatric hospitals. The report in question notes that this type of involuntary commitment is under-regulated, including in relation to informed consent in the context of unwanted medical treatment. The comments also refer to Ombudsman findings of inadequate material conditions and staffing shortages at some of the psychiatric facilities where monitoring visits had taken place.

The Czech Government makes the following observations in response. First, with regard to the legal definitions of torture and other ill-treatment, the Government's position is that these offer sufficient protection, and therefore that they are compliant with international human rights standards. Second, the Government notes that work is underway on amending relevant regulations that would address the issues concerning the way in which ill-treatment investigations are currently being conducted. Third, the Government notes that recent attempts to bring amendments that would have facilitated the creation of community-based services in the context of the deinstitutionalisation process have not been successful, but that the process in question is ongoing.

The European Semester report for 2020 indicates that the reform of the institutional care system has stalled, mainly due to its complex governance framework. There are growing regional differences insofar as community-based social services are concerned. Some social services, such as community-based services for adults and children with multiple handicaps or autism are missing. In addition, social services are often severely understaffed, and their current staff is underpaid.

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 deinstitutionalisation of persons with disabilities. As the 1961 Charter lacks a similar provision, the issue in question falls to be assessed under Article 11§3.

Accordingly, 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.

***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 about the number and causes of drug-related deaths that occurred in 2017 and 2018. The number of drug-related infections has remained relatively low. The National Strategy for the Prevention and Reduction of Damage Associated with Addictive Behaviour 2019-2027 and its joint Action Plan adopted in 2019 indicate risk and harm reduction as one of the four key strategic areas in the country's addiction policies, together with prevention, treatment and social integration, and market regulation and supply reduction. The Department of Drug Policy prepared a set of Recommendations for the Prevention of Addictology Services in Connection with Covid-19, designed to address the specific circumstances pertaining during the Covid-19 crisis.

***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 European Semester report of 2020 for Czech Republic states that air quality remains a problem in most Czech regions. Residential solid fuel combustion is the main source of particulate matter (PM2.5 and PM10), but Benzo[a]pyrene (BaP) and volatile organic compounds are also key sources. The emissions of SO2 mostly come from the industrial and power generation sectors, which account for a large share of the nitrogen oxides, volatile organic compounds, particulate matter and heavy metals in the air. Most large combustion plants still use the flexible arrangements under the industrial emissions directive to temporarily allow less strict emission limit values.

The Committee notes that the information requested is not provided. Therefore, the Committee reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Czech Republic 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 indicates that the Czech Republic has previous experience in the development of vaccines, and that a partnership involving research and academic institutions had been formed for the purposes of developing a vaccine against Covid-19.

***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 notes that an evaluation of the measures in question would be carried out once the Covid-19 crisis was over.

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 12 - Right to social security

*Paragraph 1 - Existence of a social security system*

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

According to the report, expenditure on social insurance benefits is financed from the State budget. Social security contributions are set at a total of 31.3% of the assessment base (gross income), of which employees' contributions account for 6.5% and employers' contributions for 24.8%.

### *Risks covered, financing of benefits and personal coverage*

In its previous conclusion (Conclusions 2013) the Committee considered that the personal coverage of social security benefits was satisfactory. The Committee notes from the Consolidated Report on the application by the Czech Republic of the European Code of Social Security that as regards healthcare, the total coverage in 2019 stood at 98.6%. It also notes that 100% of employees were covered under sickness, unemployment and old-age benefits system.

### *Adequacy of the benefits*

According to Eurostat data, the poverty level, defined as 50% of the median equivalised income stood at € 4,998 per year or € 417 per month in 2019. 40% of the median equivalised income amounted to € 333 per month.

### *Old age benefit*

In its previous conclusion the Committee considered that the situation in the Czech Republic was not in conformity with the Charter as the minimum level of old age benefit fell below 40% of the Eurostat median equivalised income.

The Committee takes note of the amendments introduced to the social security system during the reference period. It takes note in particular of a series of Acts amending Pension Insurance Act and Act No 582/1991 Coll., which have revised the mechanism for setting the retirement age and changed the indexation rules. Moreover, two important measures were approved in favour of pensioners, namely an increase in the basic part of assessment from 9% to 10% of the average wage and an increase in monthly pension by CZK 1,000 for all pensioners who reach the age of 85. With the Act No 244/2019 an extraordinary increase in pensions was implemented.

As regards the minimum level of pension benefit, in its previous conclusion the Committee took into account the basic flat-rate pension and the percentage amount paid in addition and considered that the total amount of the minimum pension benefit was inadequate as it fell below 40% of median equivalised income. It now notes from MISSOC that there is no statutory minimum pension. The basic Amount (*Základní složka,*10% of monthly average wage) amounted to CZK 3,490 (€ 133) per month. The percentage amount *(Procentní část)* amounted to CZK 770 (€29) per month. The minimum (basic) pension is not means-tested.

The Committee also takes note of the evolution of the average pension in relation to the average wage, which represented around 40% of the latter. However, as regards the minimum pension benefit, or the basic flat-rate pension and the percentage amount, the Committee notes that it stood at € 162.

The Committee notes from the report of the Governmental Committee (2014) that the minimum level of the old age benefit is not determined by law. The number of pensioners receiving lower pensions (below CZK 3 500) was only 0.6% of pensioners. The Czech

pension scheme depended on premiums paid, and persons not reaching a sufficient level could supplement the pension with non-contributory social benefits and assistance.

The Committee recalls in this regard that with a view to guaranteeing effective protection of all members of society against the occurrence of social and economic risks, States must ensure the maintenance of their social security systems. Social security systems must be maintained at a sufficiently extensive and compulsory level. Any modifications to the system should not transform it into a basic social assistance system (Statement of Interpretation, Conclusions XIV-1).

The Committee is aware of the fact that in some situations the minimum level of social security benefits that can be obtained under the contributory system on the basis of the length and amount of contributions paid, may be topped up with non-contributory benefits under the social assistance system. The aim of such top ups is often to ensure that the total income obtained through contributory social security system does not fall short of the level of guaranteed income as established by legislation.

However, the Committee recalls that where the minimum level of an income-replacement benefit examined under Article 12§1 of the Charter, falls below 40% of the median equivalised income (or the poverty threshold indicator), the Committee will not consider that its aggregation with other social assistance benefit can bring the situation into conformity. Where an income-replacement benefit stands between 40% and 50% of the median equivalised income, the Committee will also take into account social assistance benefits, where applicable.

For this reason, in its assessment the Committee only takes into account the basic flat-rate pension and the percentage amount paid in addition. It considers that in the light of the fact that the poverty threshold, calculated as 50% of the Eurostat median equivalised income stood at € 417 in 2019, the minimum amount of pension is manifestly inadequate.

***Unemployment benefit***

In its previous conclusion the Committee considered that the minimum level of unemployment insurance benefit was manifestly inadequate as it fell below 40% of the median equivalised income.

It notes from the report in this regard that the amount of unemployment benefits in the Czech Republic depends on the average monthly net earnings that the applicant received in the last job before his/her inclusion in the register of job seekers. The amount of unemployment benefit is determined by a percentage rate. The percentage of the unemployment benefit is 65% of the average monthly net earnings for the first two months of the support period, 50% of the average monthly net earnings for the next two months of the support period, and 45% of the average monthly net earnings for the remainder of the support period. During the reference period, no legislation was adopted that would change the conditions for determining the amount of unemployment benefits.

The Committee notes that the report does not provide information about the minimum amount of the unemployment benefit. It notes that the minimum wage stood at CZK 13,350 in 2019 (€ 520). The Committee notes that thus the minimum amount of unemployment benefit calculated at 65% of the minimum wage stood at € 340. For the remainder of the support period the minimum level of unemployment benefit paid to workers receiving minimum wage fell below 40% of median equivalised income. The Committee asks the next report to provide information regarding the minimum wage as well as any additional benefits that would be paid to a single person having earned minimum wage and now receiving unemployment benefit. In the meantime, the Committee reserves its position as regards the minimum level of unemployment benefit.

Moreover, regarding unemployment benefit, the Committee recalls that the adequacy of this benefit is inter alia also established by considering whether there is a reasonable initial

period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills without losing his/her unemployment benefits. The Committee asks whether the legislation provides for such a reasonable period.

***Sickness and maternity benefits***

In its previous conclusion the Committee considered that the minimum level of sickness benefit was manifestly inadequate.

The Committee notes from the report that the following benefits are provided from the sickness insurance system:

• sickness benefits,

• maternity benefit,

• paternal post-natal care benefit ("paternity benefits"),

• attendance allowance,

• long-term attendance allowance, compensatory allowance during pregnancy and maternity.

As regards the amendments introduced during the reference period, the Committee takes note of the introduction of the paternity post-natal care benefit, the "paternity allowance" – Act No 148/2017 Coll., amending Act No 187/2006 Coll., Sickness Insurance Act, with effect from 1 February 2018. The amount of the benefit is 70% of the reduced daily assessment basis.

Furthermore, in the reference period, the amount of reduction limits for the calculation of sickness insurance benefits was adjusted according to the development of the average nominal wage. With effect from 1 January 2019, the threshold for decisive income for participation in sickness insurance was increased from CZK 2,500 to CZK 3,000 per month.

As regards the minimum level of sickness benefit, the Committee notes from MISSOC that there is no minimum benefit, but however, there is a *de facto* minimum level, because employees earning less than CZK 3,000 (€114) a month cannot be insured for sickness benefits. The Committee asks what is the level of sickness benefit which is paid to a worker earning minimum wage. In the meantime, the Committee reserves its position as regards the minimum level of sickness benefit.

The Committee asks the next report to provide information on the minimum levels of disability and maternity benefits.

*Conclusion*

The Committee concludes that the situation in Czech Republic is not in conformity with Article 12§1 of the 1961 Charter on the ground that the minimum level of pension benefit is manifestly inadequate.

**Article 12 - Right to social security**

*Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the International Labour Convention No. 102*

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

The Committee recalls that the Czech Republic ratified the European Code of Social Security on 8 September 2000 and has accepted Parts II-V and VII-X.

The Committee notes from Resolution CM/ResCSS(2020)3 of the Committee of Ministers on the application of the European Code of Social Security by the Czech Republic (period from 1 July 2018 to 30 June 2019) that the law and practice in the Czech Republic continue to give full effect to the Parts of the Code which have been accepted. In so doing, the Czech Republic maintains a social security system that meets the requirements of ILO Convention No. 102.

*Conclusion*

The Committee concludes that the situation in the Czech Republic is in conformity with Article 12§2 of the 1961 Charter.

**Article 12 - Right to social security**

*Paragraph 3 - Development of the social security system*

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

The Committee recalls that States were asked to reply to two targeted questions for Article 12§3 of the Charter as well as, where applicable, the previous conclusions of non-conformity or deferral (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 found that the situation in the Czech Republic was in conformity with Article 12§3 of the 1961 Charter (Conclusions XX-2 (2013)). It will therefore restrict its consideration to the Government's replies to the two targeted questions, namely:

- social security coverage, and its modalities, provided to persons employed by digital platforms or whose work is managed via such platforms; and
- any impact of the Covid-19 crisis on social security coverage, and any specific measures taken to compensate for or alleviate any possible negative impact.

The Committee wishes to point out that it will take note of the reply to the second question for information purposes only, as it relates to developments that occurred 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.

***Platform workers***

The Committee recalls that it has posed a targeted question to all States on social security cover for persons employed or whose work is managed by digital platforms. The emergence of these new forms of employment has had a negative impact on certain rights of these workers, as explained in the General Introduction. In matters of social security, compliance with Article 12§3 of the Charter requires that the existing social security systems be adapted to the specific situation and needs of the workers concerned, in order to guarantee that they enjoy the social benefits included within the scope of Article 12§1. The Committee is keenly aware that there are significant gaps in the social coverage of workers in new forms of employment such as platform workers. It considers that the States Parties are under an obligation to take all the necessary measures to address these shortcomings.

In particular States Parties must take steps to ensure that all workers in new forms of employment have an appropriate legal status (employee, self-employed or other category) and that this status is in line with the actual situation thus avoiding abuse (such as the use of "bogus" or "false" self-employed status to circumvent the applicable social security regulations) and conferring adequate social security rights as guaranteed by Article 12 of the Charter on the platform workers.

In its report, the Government states that the pension insurance system is universal, i.e. the individual groups of insured persons (employees, self-employed, civil servants, etc.) are governed by a single piece of legislation, and the sickness insurance system is based on the principle of unity for all groups of gainfully employed persons (with the exception of members of the armed forces and security forces). In other words, there are no specific conditions for the provision of pension and sickness insurance benefits to persons employed by or whose work is managed by digital platforms. The Government adds that in 2019, 100% of employees (approximately 4.6 million persons) were covered by pension insurance and sickness insurance; of the self-employed, 702,432 were covered by pension insurance and 94,792 (on a voluntary basis) by sickness insurance.

The Committee takes note of this information, which is useful but does not give it a full picture of the social security coverage of digital platform workers. The Committee asks for detailed and updated information in the next report on the number of digital platform workers (as a percentage of the total number of workers), their status (employees, self-employed and/or other category), the number/percentage of these workers by status and their social security protection (by status).

***Covid-19***

In response to the second question, the Government gives details of the measures taken in 2020 in the areas of social insurance, non-means-tested benefits, social services and employment support to offset or mitigate the negative impact of the covid-19 crisis.

In particular, in terms of social insurance, the Government states that the existing sickness insurance system covered insured persons placed in quarantine or who were temporarily unable to work because of the pandemic. In addition, the legal framework was amended to extend the list of circumstances in which attendance allowances could be granted (e.g. employees looking after children who could not attend kindergartens, schools, specialised institutions and day or weekly care facilities because of the closure/reduction in capacity of such facilities) and increase the level of the allowance (from 1 April to 30 June 2020; cf. Act No. 133/2020 Coll.). Other amendments were made concerning the payment of social security contributions (e.g., from March to August 2020, self-employed persons were exempted from the payment of advances on pension insurance contributions and on contributions to the public employment policy; cf. Act No. 136/2020 Coll.).

With regard to non-means-tested benefits, measures were taken to simplify procedures and reduce personal contact with the regional branches of the Labour Office (e.g. Act No. 160/2020 Coll. simplified the supporting documents to be supplied for the receipt of benefits and thereby extended by three months (from the first to the second quarter of 2020) entitlement to child and housing allowances). Moreover, the covid-19 crisis was recognised as a serious emergency within the meaning of Act No. 111/2006 Coll. on Assistance in Material Need, thereby enabling financial assistance to be provided under that act.

In the area of social services, the Ministry of Labour and Social Affairs set up extraordinary assistance schemes to finance the costs incurred by social service providers to cover increased expenses and damage related to the measures introduced in connection with the pandemic (e.g. contributions to compensate for increased operating expenses and reductions in revenue in connection with the adoption of quarantine, emergency and crisis measures).

Lastly, to support employment, the Government, among other things, paid until the end of October 2020 wage compensation contributions to companies affected by the restrictions imposed because of the pandemic (“Antivirus” programme).

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in the Czech Republic is in conformity with Article 12§3 of the 1961 Charter.

**Article 12 - Right to social security**

*Paragraph 4 - Social security of persons moving between States*

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

***Equality of treatment and retention of accrued benefits (Article 12§4a)***

***Right to equal treatment***

The Committee recalls that the guarantee of equal treatment within the meaning of Article 12§4 requires States Parties to remove all forms of discrimination against nationals of other States Parties from their social security legislation (Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4). Both direct and indirect discrimination should be eliminated. National legislation cannot reserve a social security benefit to nationals only or impose extra or more restrictive conditions on foreigners. Nor may national legislation stipulate eligibility criteria for social security benefits which, although they apply without reference to nationality, are harder for foreigners to comply with than nationals, and therefore affect them to a greater degree. However, pursuant to the Charter's Appendix legislation may require the completion of a period of residence for non-contributory benefits. In this respect, Article 12§4a requires that any such prescribed period of residence be reasonable. The Committee considers that the right to equal treatment covers both equal access to the social security system and equal conditions for entitlement to social security benefits.

The Committee asks whether equal treatment of nationals of other States Parties lawfully resident in the Czech Republic is ensured both as regards access to the social security system and conditions for entitlement to benefits.

As regards equal treatment in respect of family benefits, the Committee recalls that the purpose of child benefits is to compensate the costs of maintenance, care and education of children. Such costs primarily occur in the State where the child actually resides.

The Committee further recalls that child benefits are covered by different provisions of the Charter, and in particular by Article 12§1 and Article 16 of the Charter. Under Article 12§1 States Parties have an obligation to establish and maintain a social security system including a family benefits branch. Under Article 16 States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be child benefits provided as part of social security, available either universally or subject to a means-test. States Parties have a unilateral obligation to pay child benefits in respect of all children resident in their territory on an equal footing, whether they are nationals or have moved from another State Party.

The Committee is aware that States Parties that are also EU Member States, on the basis of the EU legislation on coordination of the social security system are obliged to apply coordination rules which to a large extent prescribe exportability of child benefits and family allowances. When the situation is covered by the Charter, and the EU legislation does not apply, the Committee has regard to its interpretation according to which the payment of child benefits to all residing children, as a starting point, is a unilateral obligation for all States Parties. The Committee decides no longer to examine the issue of exportability of child benefits under Article 12§4a.

Under Article 12§4a of the Charter the Committee will only examine whether child benefits are paid to children, having moved from another State Party, on an equal footing with nationals, thus ensuring equal treatment of all resident children. Under Article 16 the Committee will examine equal treatment of families as regards access to family benefits and whether the legislation imposes length of residence requirement on families for entitlement to child benefit.

The Committee notes from the report that nationals of other States Parties are entitled to family benefits regardless of whether there is a bilateral agreement. The Czech Republic guarantees effective payment of family benefits for all children resident on their territory. Therefore, the Committee considers that the situation is in conformity with the Charter on this point.

***Right to retain accrued rights***

The Committee notes that there have been no changes as regards the right to retain accrued rights.

The Committee recalls that old-age benefit, disability benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one State according to the eligibility criteria laid down under national legislation should be maintained (exported) irrespective of whether the beneficiary moves between the territories. The Committee asks what is the legal basis for exportability of old age, disability and survivor's benefits and the international coordination in the social security field with non-EEA States.

***Right to maintenance of accruing rights (Article 12§4b)***

The Committee recalls that under Article 12§4b there should be no disadvantage in terms of accrual of rights for persons who move to another State for employment in instances in which they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory for the purposes of the opening, calculation and payment of benefits. In the case of long-term benefits, the pro–rata approach should also be employed. States may choose between the following means in order to ensure maintenance of accruing rights: bilateral or multilateral agreement or, unilateral, legislative or administrative measures. States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.

In its previous conclusion, the Committee concluded that the situation of the Czech Republic was not in conformity with the 1961 Charter because there were no bilateral or multilateral agreements with Albania, Andorra, Armenia, Azerbaijan, Georgia and the Republic of Moldova.

The Committee notes from the report that bilateral agreements were signed with Albania and Moldova. As regards Azerbaijan, it is underway and for Armenia and Georgia negotiations have been suspended agreement for reasons of unpreparedness and ongoing reforms in national systems. The Committee asks how the maintenance of accruing rights is ensured for nationals of those States Parties with which no relevant agreements have been concluded.

*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 Czech Republic.

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 (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 previous conclusion (2013) considered that the situation the Czech Republic was not in conformity with Article 13§1 of the 1961 Charter on the grounds that it was not established that the level of social assistance was adequate and the Czech legislation allowed withdrawal of residence permit to foreign nationals in material need. 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 previously noted (Conclusions XIX-2, and Conclusions XX-2, 2013) that the Act on Assistance in Material Need (Act No. 111/2006 Coll.) provides guaranteed minimum support benefits to people whose income is low and cannot be improved by work, use of property and other priority claims. The Committee asked to clarify under what circumstances are respectively applied the Living minimum and the Subsistence Minimum benefits.

The Committee notes that, according to MISSOC, there are three benefits: allowance for Living (*Příspěvek na živobytí*), a recurrent benefit provided to a person or a family in case of insufficient income to ensure basic needs (except for needs related to housing); supplement for housing (*Doplatek na bydlení*), a recurrent benefit provided to a person or a family in case of insufficient income to cover justified housing costs; and extraordinary immediate assistance (*Mimořádná okamžitá pomoc*), a one-off benefit provided to persons in precarious situations. The amounts are based on the Living minimum (*Životní minimum*) and Subsistence minimum (*Existenční minimum*) and vary according to the applicant's income, efforts and personal status. The subsistence minimum level is lower barely covering the most essential needs, and applies if benefit recipients do not exploit all available possibilities to increase their income through their own actions. The aim is to encourage the beneficiaries to seek employment instead of depending on public assistance.

The Committee also asked in its previous Conclusion in 2013 to clarify to what extent social assistance is reduced/suspended in cases subject to the condition to register with the employment office, actively look for a job, accept any (even short-term or less paid) employment, participate in active employment programmes, public works, public services etc. According to MISSOC, persons refusing to participate will not receive benefits for 3

months. Assistance could also be suspended for three months to people failing to ensure mandatory school attendance of their children.

The Committee recalls that reducing or suspending social assistance benefits can only be in conformity with the Charter if it does not deprive the person concerned of his/her means of subsistence and asks the next report to provide any relevant statistical data concerning the cases of suspension/reduction of assistance, to indicate whether emergency assistance (food, clothing, shelter) remains available even in case of suspension of the regular social assistance benefits and whether effective remedies are available to appeal decisions suspending or reducing assistance. The Committee considers therefore that no means of subsistence remain available to those whose social assistance is withdrawn as a penalty for having refused a job offer or other and that this situation is not in conformity with the 1961 Charter.

Concerning medical assistance, the Committee notes from MISSOC that health care is provided to all insured and that health insurance contributions for people in material need are paid by the State. Persons in material need are not exempted from co-payments (these apply only to medicaments and medical devices), but they do not pay regulatory charges for health care provided in emergencies.

***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 1 January 2020), the monthly amounts of Living minimum (*Životní minimum*) is for a single person: CZK 3,410 (€134). The monthly amount of Subsistence minimum (*Existenční minimum*) is CZK 2,200 (€86).
- Additional benefits: according to the MISSOC, a housing allowance can be granted if come is lower than the relevant normative housing costs given by law which are, in addition, differentiated according to type of housing (rental, cooperative, owner occupied flat), size of municipality and number of family members. The amount of the Housing Allowance for a calendar month is calculated as the difference between the normative housing costs and the family's decisive income multiplied by a coefficient of 0.30 (in Prague 0.35).
- 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 €417 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.

<u>Foreign nationals lawfully present in the territory</u>

In its previous conclusion (Conclusion 2013), the Committee deferred its views on whether the situation was 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 to be eligible for social assistance. The report does not provide a specific reply on this issue. The Committee notes that, according to MISSOC, social assistance is guaranteed to permanent residents (which implies 5 years), persons who obtained asylum and otherwise to EU citizens after 3 months of residence in the Czech Republic and migrant workers and their family members under EU Regulation 492/2011. The Committee notes that there is therefore an explicit entitlement to social assistance for EU nationals and their family members, but not for the nationals of a State member of the Social Charter. No information on statistics and how this access is provided, except the special regime applicable to minors. In these circumstances, the Committee defers again its conclusion and asks the next report to provide statistics of foreigners accessing to social and medical assistance under the European Social Charter. Should the next report fails to provide this information, there will be nothing to establish that the situation is in conformity with the Charter on this point.

In its previous conclusions (Conclusions 2009 and 2013), the Committee had considered not to be in conformity with the Charter to withdraw a residence permit on the mere ground that the person represents an "unreasonable burden" for the social assistance system. According to the report, this provision was repealed on 31 December 2011 and since then it is not possible to withdraw a residence permit on this ground. The Committee asks that the next report provides further specific information about the number of foreigners in this situation and accessibility to social assistance rights. In the meantime, it reserves its position on this point.

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 refers to persons present in the Czech Republic in an irregular situation and to the fact that they can be provided with extraordinary immediate emergency medical assistance (a one-off benefit of the system of assistance in material need). The benefit can be provided up to an amount that supplements the person’s income to the subsistence minimum; in the case of a child, up to the existence minimum. The Committee asks the next report to provide detailed information on whether medical emergency assistance can be given any time the person needs it. In the meantime, it considers the situation to be in conformity with the Charter.

### *Medical and social assistance during the Covid-19 pandemic*

The report does not refer to any specific measure under Article 13 taken to alleviate the Covid-1 pandemic. The Committee reiterates its request that the next report to produce detailed information about specific measures taken as regards the Covid-19 pandemic as regards medical and social assistance.

*Conclusion*

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

- the right to social assistance to all persons in need is not guaranteed as it can be withdrawn as penalty for having refused a job offer or not registering with an employment office;
- the level of social assistance is manifestly inadequate.

## 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 takes note of the information contained in the report submitted by the Czech Republic.

The Committee recalls that Article 13§3 concerns services offering free personal assistance and counselling as may be required to prevent, to remove, or to alleviate personal or family want. It further 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 scope of the thematic group “Health, social security and social protection”). However, no targeted questions were posed in respect of Article 13§3 of the 1961 Charter. The Committee deferred its previous conclusion (Conclusions XXI-2 (2017)). It will therefore limit its examination to the Government’s replies to its previous request for relevant complementary information.

The Committee has previously considered that it needed more comprehensive information in order to establish that, both in theory and in practice, foreign nationals of the States Parties to the Charter are entitled to equal access to advice and personal assistance services, without being subjected to an excessive residence requirement. It notes that this aspect is thoroughly examined under Article 14§1 of the 1961 Charter and refers to its conclusion under this provision.

*Conclusion*

The Committee concludes that the situation in the Czech Republic is in conformity with Article 13§3 of the 1961 Charter.

## 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 the Czech Republic.

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 the Czech Republic was not in conformity with Article 13§4 of the 1961 Charter on the ground that it had not been established that emergency social assistance is available to all non-resident foreign nationals of other States Parties, irrespective of their status. 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 deferred its conclusion under Article 13§1 concerning access to social assistance to foreign nationals lawfully present in the territory. The report states that non-resident foreigners lawfully present and foreigners unlawfully present who are in need, in accordance with applicable national regulations, can be provided with extraordinary immediate assistance due to serious damage to health (a one-off benefit of the system of assistance in material need). The benefit can be up to an amount that supplements the person's income to the subsistence minimum; in the case of a child, up to the existence minimum. The report does not give further precisions about access to social assistance. The Committee asks therefore the next report to clarify this situation, mainly if every person in need may access emergency social assistance and to clarify if access to health care is provided free of charge. In the meantime, it reserves its position.

*Conclusion*

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

## 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 the Czech Republic.

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.

In its previous conclusion, the Committee reserved its position as regards the equal access to social services by nationals of other States Parties until it was provided with more detailed information on the matter (Conclusions XX-2).

The report provides that in accordance with Section 4(2) of the Social Services Act, social services are granted to foreigners without permanent residence in the Czech Republic, to whom this right is guaranteed by an international agreement which is part of the Czech law. Such agreements also include the European Social Charter. The report also states that ESC Contracting Parties may have other types of residence permits listed in Section 4 of the Social Services Act, on the basis of which they may have access to the care allowance. Furthermore, EU citizens who migrate within the EU, are protected by a directly applicable agreement in terms of equal treatment rights, including long-term care benefits, such as care allowance (Regulation No 883/2004 on the coordination of social security systems). The Committee notes that the information provided does not suffice to demonstrate that nationals of other States Parties lawfully resident or regularly working in the Czech Republic, in particular non-EU citizens, have the same entitlement of access to social services as citizens, and if not, what restrictions are applied, such as, for instance length of residence. Accordingly, the Committee considers that it has not been established that the situation is in conformity with the Charter in this respect.

The Committee refers to its previous conclusions for a description of the system of quality control (Conclusions XX-2). The report provides that during the COVID-19 pandemic, due to the protection of users and social workers, some social services were gradually closed according to the development of the situation. The Government (MoLSA) addressed stirring operational problems and adapted application procedures, as well as issued specific crisis measures. For social services which suffered from a shortage of staff, the MoLSA provided for the possibility to involve students of social sciences and allocated an extraordinary subsidy to this aim.

The Committee recalls that the right to benefit from social welfare services provided for by Article 14§1 requires Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment (Conclusions 2005, Bulgaria). The report provides that during the pandemic, social services, especially care services, were enabled to focus primarily on the delivery of lunches, purchases and

medicines to the elderly, people with disabilities, or other persons in need. The measures adopted also took into account some specific needs of users of social services, such as people with ASD or people with limited legal capacity and children.

The report further states that during the declared state of emergency, while respecting all preventive measures, the activities of bodies and institutions authorized to supervise the provision of social services were not restricted and that they were guaranteed access to all places where persons may be deprived of their liberty, including places where persons were quarantined.

In reply to the Committee's questions about specific measures taken in anticipation of possible future crises of such kind, the report states that work has begun on drawing up guidelines for regions and local authorities to ensure the protection of children and respect for their rights regardless of their situation.

*Conclusion*

The Committee concludes that the situation in the Czech Republic is not in conformity with Article 14§1 of the 1961 Charter on the ground that it has not been established that equal access to social services is guaranteed to nationals of all States Parties lawfully residing on Czech territory.

**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 the Czech Republic.

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 report states that under the Social Services Act, social services are the responsibility of the regions. Regions are responsible for disseminating information on the possibilities and ways of providing social services on their territory and for preparing a medium-term plan for the development of social services in cooperation with local municipalities, representatives of social service providers and representatives of social services users. The region then monitors and evaluates the implementation of the social services development plans with the participation of representatives of local authorities, social service providers and users. It also cooperates with other local authorities, regions and social service providers to facilitate assistance to persons, or to mediate between providers and users. The Social Services Act lists the obligations of social service providers. The Ministry of Labour and Social Assistance monitors and controls the performance of the public administration in the field of social services. The Committee asks what measures, in addition to legislative ones, have been adopted or envisaged to encourage user participation in social services, and how it is ensured that the principles of equality, diversity, accessibility and reciprocity are respected.

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in the Czech Republic is in conformity with Article 14§2 of the 1961 Charter.

## Article 4 of the 1988 Additional Protocol - Right of the elderly to social protection

The Committee takes note of the information contained in the report submitted by the Czech Republic, It also takes notes of the comments submitted jointly by Forum for Human Rights, Validity Foundation and Inclusion Czech Republic on 1 July 2021 and of the comments in response submitted by the Czech Government on 25 August 2021.

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 social and economic rights of older persons are respected and 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.

The previous conclusion was one of non-conformity on the grounds that the level of the minimum pension is manifestly inadequate and during the reference period there was no legislation prohibiting discrimination on grounds of age outside of employment (Conclusions 2013).

### *Autonomy, inclusion and active citizenship*

### *Legislative framework*

The Committee recalls that Article 4 of the 1988 Additional Protocol to the 1961 Charter requires State Parties to undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular to enable older persons to remain full members of society for as long as possible. The expression "full members of society" used in Article 4 of the Additonal Protocol requires that older persons must suffer no ostracism on account of their age. The right to take part in society's various fields of activity should be ensured to everyone active or retired, living in an institution or not.

The Committee takes due account of contemporaneous definitions of ageism which refer to the stereotypes, prejudices and discrimination directed towards other or oneself based on age (see for example WHO report on Ageism, 2021, p. XIX) As the World Health Organisation has noted, "… ageism has serious and far-reaching consequences for people's health, well-being and human rights"(WHO report on Ageism, 2021, p. XVI).

The Covid-19 crisis has exposed and exacerbated a lack of equal treatment of older persons. This has included in the healthcare context, where there have been instances of rationing of scarce resources (e.g. ventilators) based on stereotyped perceptions of quality of life, vulnerability and decline in old age.

Equal treatment calls for an approach based on the equal recognition of the value of older persons' lives in all the areas addressed by the Charter.

Article 4 of the 1988 Additonal Protocol of the Charter requires the existence of an adequate legal framework for combating age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services, such as insurance and banking products, allocation of resources and facilities. Discrimination against older persons in terms of social rights enjoyment, is also contrary to the Preamble.

The overall emphasis in the Charter on using social rights to underpin personal autonomy and respect the dignity of older persons and their right to flourish in the community requires a commitment to identifying and eliminating ageist attitudes and those laws, policies and other measures which reflect or reinforce ageism. The Committee considers that States Parties, in addition to adopting comprehensive legislation prohibiting discrimination on grounds of age, must take a wide range of measures to combat ageism in society. Such measures should include reviewing (and as necessary amending) legislation and policy for discrimination on grounds of age, adopting action plans to ensure the equality of older persons, promoting positive attitudes towards ageing through activities such as society-wide awareness campaigns, and promoting inter generational solidarity.

Article 4 of the 1988 Additional Protocol further requires that States Parties provide for a procedure of assisted decision making.

The Committee previously concluded that the situation was not in conformity with Article 4 of the 1988 Additional Protocol on the grounds that during the reference period there was no legislation prohibiting discrimination on grounds of age outside of employment (Conclusions 2013). However it previously noted that the Anti-Discrimination Act (Act No.198/2009 on Equal treatment and protection against discrimination), as amended by Act No 89/2012, guarantees the right to equal treatment and non-discrimination on grounds of age in fields such as social security, access to health care and its delivery, access to education and its provision and access to goods and services, including housing, if they are offered to the public. Further Act No 372/2011 on Health services expressly prohibits discrimination in access to health care services on grounds of age (Conclusions 2013). The Committee considers that the situation is now in conformity with the Charter in this respect.

The Committee also previously asked for information as to whether there existed a procedure for assisted decision making for older persons (Conclusions 2013). No information is provided on this issue.

The NGO coalition states that the Government has failed to promote supported assisted decision making.

In response the Government refers to Assistance in decision-making (Act No. 89/2012 Coll., Civil code, section 45), allowing a person, who needs assistance in decision making to receive assistance, even where his/her legal capacity has not been limited and to Representation by a household member (Act no. 89/2012 Coll., Civil code, section 49), allowing a person, who needs assistance to be represented by a household member (descendant, ancestor, sibling, spouse or partner, or a person who had lived with the person represented in a common household before the creation of representation for at least three years).

The Committee asks the next report to provide updated information on assisted decison making.

The Committee recalls that there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves. Older persons must not be assumed to be incapable of making their own decisions just because they have a particular medical condition or disability. Older persons may need support when exercising their legal capacity. Therefore, there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves. This means that older persons cannot be assumed to be incapable of making their own decision just because they have a particular medical condition or disability.

States Parties must take measures to replace regimes of substituted decision-making by supported decision-making, which respects the person’s autonomy, will and preferences. These may be formal or informal.

Older persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own.

In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons. It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights (Statement of Interpretation 2013).

***Prevention of abuse of older persons***

As regards the prevention of older abuse the Committee notes from the report that under the National Plan to Support Positive Ageing 2013-2017 measures were taken inter alia, to maintain and evaluate statistics on violence against older persons, to establish cooperation with the non-profit sector in order to increase awareness of the problem of maltreatment, neglect and abuse of older persons and provide training to judges, public prosecutors, officials, police officers, medical staff, social workers and nursing personnel. A strategic framework for preparation of the ageing of society 2020-2025 was approved in 2020 (outside the reference period). A follow up plan on implementation was to be adopted which will elaborate on the concrete measures to be undertaken. One chapter on "Safe life of seniors, fight against discrimination, violence and abusive 'snake oil salesmen', increase of consumer protection" proposes measures to support prevention services concerning crime aimed at the older persons as well as increase the awareness of older persons about their human and consumer rights, strengthen their resilience to unfair commercial practices and hoaxes or discriminatory practices, and inform them about the risks of illegally provided social services or risks arising from the receipt of social services from unlicensed providers. In addtion the legal framework and the *de facto* situation in the care and treatment of the older persons terms of prevention and protection against disrespectful treatment, abuse and neglect will be analysed.

The Committee asks for the next report to provide updated information on measures taken to combat abuse of older persons including measures to raise awareness of the need to eradicate abuse and neglect of older persons (beyond the institutional care context), and any legislative or other measures. It also asks whether data has been collected which would indicate the prevalence of older abuse.

***Independent living and long term care***

The Committee asks whether steps have been taken to move way from the institutionalisation of older persons and adopt a long term care and support in the community model. The Committee recalls that Article 4 of the 1988 Additional Protcol provides that measures should be taken to enable older persons to lead independent lives in their familiar surroundings therefore it considers that older persons requiring long term care should be able to choose their living arrangements. In particular, this requires States Parties to make adequate provision for independent living, including housing suited to their needs and state of health, as well as the necessary resources and supports needed to make independent living possible.

According to the NGO coalition the number of residential facilities for older persons continued to increase over the reference period. Although the number of residents has remained stable. The NGO coalition states that all existing policies concentrate on the need to develop community alternatives and the support of informal care but fail to include as an objective the progressive elimination of existing institutions and the prevention of the establishment of new institutions or enlargement of existing ones.

Furthermore, it alleges that the Government promotes institutionalisation as its major strategy for support of older persons in its budgetary allocations. For instance, it states that in 2020 the Ministry of Labour and Social Affairs decided to allocate more than 753 million CZK (€ 29,62 million) to increase "the capacities, quality of the environment and services" of

facilities for seniors. The amount was 82,5 million CZK (€2,25 million) 4 times higher than in the previous year and will increase the capacities of facilities for seniors by 1,174 beds.

In response the Government states that in the first phase of deinstitutionalisation, the social services for people with disabilities were given priority over services for the target group of older persons. However, the reduction of institutional care for older persons has also begun to be implemented. The Integrated Regional Operational Program and the National Recovery Plan already include support for older persons primarily through creating facilities for community and outpatient services which support older persons in their home environment, or in supported independent living in single rooms with separate sanitary facilities.

Institutionalisation is a form of segregation, often resulting in a loss of autonomy, choice and independence. The Covid-19 pandemic has put the spotlight on the shortcomings of institutionalised care. The Committee refers in this respect to its Statement on Covid-19 and social rights (adopted march 2021) where it stated that enabling older persons to remain in their familiar surroundings as required by Article 4 of the 1988 Additional Protocol r has become even more important in view of the heightened risk of contagion in the congregated settings of nursing homes and other long-term institutional and residential facilities and to the human rights-based argument for investment in the community to give reality to the right to community living is now added a public health argument in favour of moving away from residential institutions as an answer to long term care needs.

The Committee recalls from its previous conclusion that the Ministry of Labour and Social Affairs was seeking to de-institutionalize and humanise social welfare services by transforming residential social services into other types of social Services provided in the community (Conclusions 2013).

The Committee asks the next report to provide updated information on the progress made in providing care in the community, it asks in particular how many older persons reside in institutions-residential care and trends in the area.

***Services and facilities***

The Committee notes the information in the report on the share of day care facilities for older persons operated by local government and other providers. It notes that fees may be charged for these services and that the maximum fee that maybe charged is set by law.

Standards for services irrespective of who is providing the services are laid down in legislation, which also requires a complaints mechanism to be established.

The social services inspectorate monitors the standards of services and may impose a fine where they are not adhered to.

The report provides information on the (non means tested) care allowance. The aim of this benefit, provided on the basis of a needs assessment, is to enable a person to purchase “services” from a lay person or professional, in order to remain in their home environment. The amount payable depends on the degree of dependence.

New legislation on social services was adopted in 2020 (outside the reference period). The Committee asks the next report to provide updated information on the range of services and facilities available to older persons, including long term care, in particular those enabling them to remain active members of their community and to remain in their home as well as information on the costs of such services. It also asks whether there is an adequate supply of care services, including long term care services and whether there are waiting lists for services.

The Committee asks what support is available for informal carers.

The Committee notes that many services (and information about services) are increasingly accessible online. Digitalisation provides opportunities for older persons. However older

persons may have more limited access to the internet than other groups and may lack the necessary skills to use it. Therefore, the Committee asks what measures have been taken to improve the digital skills of older persons, ensure the accessibility of digital services for older persons, and ensure non-digital services are maintained

***Housing***

The Committee asks the next report to provide information on how the needs of older persons are taken into account in national or local housing policies and strategies as well as information on the supply of sheltered/supported housing and the range of accommodation options for older persons.

***Health care***

The Committee notes the adoption of a National Action Plan for Alzheimer's Disease and Similar Diseases 2020-2030.

The Committee asks that the next report provide information on other healthcare programmes specifically designed for older persons.

The Committee recalls that the pandemic has had devastating effects on older persons' rights, in particular their right to protection of health (Article 11 of the Charter), with consequences in many cases for their rights to autonomy and to make their own decisions and life-choices, their right to continue to live in the community with adequate and resilient supports to enable them to do so, as well as their right to equal treatment when it comes to the allocation of health care services including life-saving treatments (e.g., triage and ventilators). Whether still living independently or not, many older persons have had their services removed or drastically reduced. This has served to heighten the risk of isolation, loneliness, hunger and lack of ready access to medication.

Further the Covid-19 crisis has exposed examples of a lack of equal treatment of older persons, too much space was allowed for implicit judgments about the 'quality of life' or 'worth' of lives of older persons when setting the boundaries for triage policies.

The Committee asks whether decisions around the allocation of medical resources may be made solely on the basis of age and asks whether triage protocols have been developed and followed to ensure that such decisions are based on medical needs and the best scientific evidence available.

***Institutional care***

The Committee refers to its statement above on the importance of moving away from institutional care and towards care in the community.

The Committee previously requested information on the inspection of institutions providing care to older persons by the inspection services and the Ombudsman (Conclusions 2013).

According to the report that Social Services Inspection Offices under the aegis of the Ministry of Labour and Social Affairs are responsible for monitoring care standards in residential care" they may request that a provider undertakes certain measures to improve standards and if this is not complied with the provider commits and administrative offence and maybe fined. They also may receive complaints directly form service users.

The Ombudsman is also responsible for supervising the provision of social services as an independent institution for the protection and promotion of human rights. The Ombudsman conducts independent inquiries, makes recommendations for the correction of deficiencies and requires the authorities to implement them. It may recommend to the complainant steps to protect his or her rights. The authorities are obliged to co-operate with the Ombudsman and take remedial action, otherwise the Ombudsman shall inform superior authorities, the Government or the public. The Ombudsman regularly informs the Ministry of Labour and Social Affairs about the results of inquiries carried out in social services facilities, as well as about their findings.

As regards fees for residential care the report states that the maximum amount of payment for is CZK 210 (€8.41) per day, for meals there is a maximum payment of CZK 170 (€6.81) per day. The user pays for accommodation and meals. However, persons with low income may not be obliged to pay the full amount, users of residential social services must always retain 15% of their pension (the minimum income balance).

The Committee recalls that there is an overall emphasis in the Charter on using social rights to underpin personal autonomy and respect the dignity of older persons resulting in a pressing need to re-invest in community-based supports as an alternative to institutions. Where during the period of transition towards deinstitutionalisation, institutionalisation is unavoidable, Article 4 of the Additional Protocol requires that living conditions and care be adequate and that the following basic rights are respected: the right to autonomy, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact (including through internet access) with persons close to the older person and the right to complain about treatment and care in institutions. This also applies in the Covid-19 context.

Due to the specific Covid-19 related risks and needs in nursing homes, States Parties must urgently allocate sufficient additional financial means towards them, organise and resource necessary personal protective equipment and ensure that nursing homes have at their disposal sufficient additional qualified staff in terms of qualified health and social workers and other staff in order to be able to adequately respond to Covid-19 and to ensure that the above mentioned rights of older people in nursing homes are fully respected.

***Adequate resources***

When assessing adequacy of resources of older persons under Article 4 of the 1988 Additional Protocol the Committee takes into account all social protection measures guaranteed to older persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to older persons. These resources will then be compared with median equivalised income. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee previously found that that the minimum old-age pension was manifestly inadequate as it was considerably below the poverty threshold and therefore found that the situation was not in conformity with Article 4 of the 1988 Additional Protocol on this point. However, it also noted from Eurostat figures that the number of older persons living in poverty was low and asked for clarification of the situation (Conclusions 2013).

In response the report states that there is no statutory minimum old-age pension, the protection of people with low income is ensured within the systems of assistance in material need and State social support.

The pension has two components, a basic amount *(Základní složka)*, flat rate (10% of monthly average wage) and a percentage amount *(Procentní část), e*arnings related element calculated from the Personal Assessment Base *(Osobní vyměřovací základ)* and the number of years of insurance: 1.5% of the Personal Assessment Base per year of insurance (no maximum).

According to MISSOC in July 2019 the flat basic rate (10% of monthly average wage) was CZK 3,270 (€129) per month and the percentage amount was CZK 770 (€30) per month.

The Committee notes from Eurostat that in 2019 50% of the median equivalised income stood at €417 and that the minimum level of old age benefit falls below 50% of the Eurostat median equivalised income.

The report states the at-risk-of-poverty rate of the elderly, expressed as a percentage of people with incomes below 40% of the median equivalised income is very low in the Czech

Republic. According to Eurostat data, in 2018 for persons aged 65 and over this rate was only 1.0%, compared to an average of 3.6% in EU countries.

It also states that the average old age pension in 2019 amounted to 13,426 CZK (€531.61).

The report states the recipients of the lowest pensions maybe entitled to other benefits such as housing allowance, allowance for living, supplement for housing and extraordinary assistance.

The Committee takes note that recipients of the lowest pensions can receive additional assistance however without further information as to the level of income this would give older persons the Committee can only reiterate its previous conclusion that the minimum level of the old age benefit is inadequate.

***Covid-19***

The Committee asked a targeted question on measures taken to protect the health and well-being of older persons in the context of Covid-19.

According to the report during the pandemic, the Ministry of Labour and Social Affairs has so far prepared 16 recommendations which it updates depending on the development of the situation. These recommendations regulate, for example, quarantine procedures, COVID zones, the operation of social services, etc. Furthermore, the Ministry of Labour and Social Affairs in cooperation with the Ministry of Health has prepared instructions for social service providers in connection with the *system "Traffic light" – guidelines for social service providers* and *Plan for assistance to vulnerable persons*.

In addition social workers provided social counselling and necessary help in the field, according to the individual needs of clients, providing basic protective equipment, food and shopping delivery, to providing clothes from local charities.

A telephone line was set up by the Ministry of Labour and Social Affairs, focusing specifically on the needs of older persons. In individual regions and municipalities, crisis telephone lines, leaflets, posters, local radio announcements provided information to older persons.

Specific instructions were ordered to protect older persons in residential care and in healthcare services, in order to prevent the transmission of Covid-19, for example the obligation to set aside premises with a bed capacity for the separation of persons receiving health or social services (hereinafter "services") in their facilities who have been diagnosed with Covid-19, to regularly monitor the health status of persons in a residential facility, the obligation to ensure proper staffing for facilities.

A ban on visits to all facilities of health and social service providers was introduced. Residential social services were only permitted to accept new clients only after submitting a negative result for Covid-19.

Within the Ministry of Health, a working group for the protection of vulnerable persons was set up to establish a Plan of Measures aimed at protecting the most vulnerable persons in connection with Covid-19 epidemic and identifying the main areas of need for measures to protect these groups beyond general sanitary-epidemiological measures.

The Committee refers to the section on older persons in its statement on Covid-19 and Social Rights (March 2021) (and to sections cited above). It recalls Article 4 of the Additional Protocol to the 1961 Charter requires that older persons and their organisations be consulted on policies and measures that concern them directly, including on ad hoc measures taken with regard to the current crisis. Planning for the recovery after the pandemic must take into account the views and specific needs of older persons and be firmly based on the evidence and experience gathered in the pandemic so far.

*Conclusion*

The Committee concludes that the situation in the Czech Republic is not in conformity with Article 4 of the 1988 Additional Protocol to the 1961 Charter on the ground that the level of the minimum pension is inadequate.