



March 2022

EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-2 (2021)

POLAND

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 Poland, which ratified the 1961 European Social Charter on 25 June 1997. The deadline for submitting the 20th report was 31 December 2020 and Poland submitted it on 10 February 2021.

The Committee recalls that Poland 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 XXI-2 (2017)).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If the previous conclusion (Conclusions XXI-2 (2017)) found the situation to be in conformity, there was no examination of the situation in 2020.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerned the following provisions of the thematic group II "Health, social security and social protection":

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

Poland has accepted all provisions from the above-mentioned group except Articles 13§1, 13§4, 14§2 and Article 4 of the Additional Protocol.

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

The conclusions relating to Poland concern 11 situations and are as follows:

– one conclusion of conformity: Article 12§2.

– 4 conclusions of non-conformity: Articles 12§1, 12§4, 13§3 and 14§1.

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

The next report from Poland will deal with the following provisions of the thematic group III "Labour Rights":

- the right to just conditions of work (Article 2);
- the right to a fair remuneration (Article 4);
- the right to organise (Article 5);
- the right to bargain collectively (Article 6);
- the right to information and consultation (Article 2 of the Additional Protocol);
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

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 Poland.

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 deferred its conclusion (Conclusions XXI-2 (2017)). The assessment of the Committee will therefore only concern the information provided by the Government in response to the deferrals and 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

The Committee previously asked the next report to provide information about the outcome of the third stage of the programme “Improving Safety and Conditions at Work”. The Committee also pointed out that the report provided no information on whether regulations concerning health and safety at work covered work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships. The Committee considered that if the requested information was not provided in the next report, there would be nothing to establish that the situation in Poland is in conformity with Article 3§1 of the 1961 Charter (Conclusions XXI-2 (2017)).

In response, the report provides detailed information about the outcome of the third stage of the programme “Improving Safety and Conditions at Work” (2014-2016). The report states that the main objectives of the third stage of the programme were to develop innovative solutions aimed at the development of various resources that would contribute to the significant reduction of the number of persons working in dangerous conditions and to reduction of accidents at work, occupational illnesses and economic and social losses that come with the accidents. The report states that the results achieved included the improvement of the system of assessment of risks to health and safety at work.

The report also provides detailed information on the results of the fourth stage of the “Improving safety and Working Conditions” programme (2017-2019). The report states that the results of the fourth stage of the programme were: the development of the national system of control of work conditions and safety at work; the improvement of the system of the assessment of safety, hygiene, ergonomic requirements of products; the measures of promoting the health and safety at work were introduced, which included the distribution of various publications on health and safety at work in enterprises, organisation of conferences and seminars, organisation of national information campaigns.

The report provides detailed information with regard to regulations concerning health and safety at work covering work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships. The Labour Code established an obligation of the employer to prevent psychological harassment and the right of the employee to request damages and interest. All employees enjoy the same legal guarantees

in cases of stress, aggression and violence at work. Between 2016 and 2019 the National Labour Inspection developed a programme “Prevention of harmful effects of stress and other psychosocial risks in the workplace.” The main objective of the programme was to provide knowledge about stress, psychological harassment, discrimination, unequal treatment and their effects on work. Trainings were organised for companies, also conferences, seminars were organised and free publications on stress at work were available.

The report also lists the new regulations adopted in the field of health and safety at work and changes in the domestic legislation. For example, on 2 June 2016 certain Articles of the Labour Code were amended in order to ensure the correct transposition of the Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. In accordance with the amendment, women are prohibited to do difficult or dangerous work if they are pregnant or breastfeed.

The report states that the National Health Programme for 2016-2020 provided for research into the exposure of employees to noise, ultrasound, various gases, and electromagnetic fields.

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.

The report provides no information requested. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Poland is in conformity with Article 3§1 of the 1961 Charter on this point.

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

In its previous conclusion, the Committee asked the next report to indicate any changes made in terms of protection of workers against asbestos. It also asked the next report to provide information on whether the workers were protected up to a level at least equivalent to that set in the Recommendations by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) (Conclusions XXI-2 (2017)).

With regard to asbestos, the report states that the relevant legislation on workers exposed to asbestos has not been modified during the present reporting cycle. The report specifies that there is a law of 19 June 1997 on prohibition of products containing asbestos. There are also several regulations related to asbestos: on periodic medical examination of workers employed in enterprises that use asbestos of 2004; on treatment of persons who worked in making products containing asbestos of 2004; on preventive examinations of person who worked or works in factories using asbestos of 2005; on medicine for treatment of illnesses related to asbestos of 2005; on methods and conditions of safe use and safe removal of products containing asbestos of 2004; on health and safety rules on protection and removal of products containing asbestos and a training programme on the safe use of such products of 2005; on the requirement related to the use of products containing asbestos and on cleaning of facilities and devices in which products containing asbestos were or are used of 2010.

The Committee takes note of this information. It asks the next report to provide information on exposure limit values.

With regard to ionising radiation, the report states that the Recommendations by the International Commission on Radiological Protection were repeated in the Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, which was transposed into Polish law on 13 June 2019.

Personal scope of the regulations

In its previous conclusion, the Committee asked that the next report provided any changes made in terms of protection of temporary workers (Conclusions XXI-2) (2017)).

The report states that the regulations concerning health and safety at work of employees equally apply to temporary workers.

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 on the protection of frontline workers.

In response, the report states that during the pandemic the employer has an obligation to provide the employees with the individual protection equipment and cleaning products and to organise work taking into account the risk of infection. The training of workers on how to correctly use the personal protection equipment is also important. A number of regulations were adopted in Poland on the measures of protection of the employees.

To protect the employees working in commercial centres and services, employers have to provide them with disposable gloves or hand sanitizers, other people in the commercial centres have to wear disposable gloves or use hand sanitizers.

A number of guidelines were adopted on specific workplaces, such as kindergartens, primary schools, museums and galleries, libraries, commercial centres, furniture stores,

beauty parlours, restaurants, fairs, public institutions, swimming pools and saunas, piercing and tattoo salons, entertainment parks, gyms, massage parlours, prisons.

The report states that measures have been taken to protect medical personnel and they were instructed about how to act when they have a patient with Covid-19 symptoms. In such cases, personal protective equipment must be used.

As regards police forces, border control officers and migration centres, a number of recommendations have been issued on the use of personal protective equipment, on dealing with colleagues or other persons with suspected Covid-19.

As regards military personnel, legal acts have been issued on training of military personnel to provide healthcare, on preparation quarantine centres for military personnel, on the capacity of the military personnel to disinfect the various premises, equipment and the ground, as well as on personal protective equipment.

As for penitentiary officers, regulations have been adopted on measures to deal with Covid-19. Remote work was introduced as much as possible and all the employees were provided with personal protective equipment.

As for probation officers, they were recommended to minimise contacts, to communicate remotely and all the probation offices were closed. However, certain officers were still carrying out their activities but they had to take all safety measures. The offices were reopened on 18 May 2020 but it was still recommended to carry out as much work as possible remotely. The officers were provided with personal protective equipment.

As for foster care institutions, the rules have been modified to protect both the employees and the children in the institutions.

As for the educational system, the schools were closed temporarily and a number of guidelines and recommendations were adopted. 20 million face masks, 5 million litres of disinfectant, 75,000 contactless thermometers and 17,500 dispensers were distributed to the educational institutions.

Conclusion

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

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 Poland.

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 XXI-2 (2017)), the Committee concluded that the situation in Poland 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 XXI-2 (2017)) the situation regarding accidents at work and occupational diseases and concluded that the situation in Poland was in conformity with Article 3§2 of the 1961 Charter. In its targeted question on Article 3§2 with regard to accidents at work and occupational diseases, the Committee asked for information on statistical data on prevalence of work-related death, injury and disability including as regards suicide or other forms of self-harm, PTSD, burn-out and alcohol or other substance use disorders, as well as on epidemiological studies conducted to assess the 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 sports 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 also as regards the victims of harassment at work and poor management.

In reply, the report indicates that the number of total accidents at work decreased from 87,447 in 2016 to 83,930 in 2018. The report provides detailed data on the number of victims in work accidents during the reference period. The total number of victims fell from 87,886 in 2016 to 83,205 in 2019 which correspond to an incidence rate (per 1,000 employees) of 7,00 (in 2016) and 6,15 (in 2019). The number of victims in fatal accidents also showed a decreasing trend: 243 in 2016, 211 in 2018 and 184 in 2019; with an incidence rate (per 1,000 employees) of 0,019 in 2016, 0,02 in 2018 and 0,01 in 2019.

The report also provides information on the number of victims in serious work accidents and minor accidents both of which showed a decreasing trend during the reference period: between 2016 and 2019, the number of victims in serious work accidents fell from 467 to 390 (with an incidence rate of 0,04 to 0,03) and the number of victims in minor accidents fell from 87,176 to 82,631 (with an incidence rate of 6,94 to 6,11).

According to EUROSTAT data, the number of fatal accidents at work was 198 in 2016, 183 in 2018 and 149 in 2019 which correspond to incidence rates of 1.61 in 2016 and 1.76 in 2018. These figures are below the EU-27 average (2.29 in 2016 and 2.21 in 2018). According to the same data, the number of non-fatal accidents at work (with a result of 4 days of absence from work) fell from 63,382 in 2016 to 60,431 in 2018 and 61,084 in 2019, with an incidence rate of 537.65 (2016), 518.12 (2017) and 574.22 (2018). These figures are below the EU-27 average during the same period (1772.37 in 2016 and 1768.93 in 2018).

The report provides detailed information on various security campaigns coordinated by the European Agency for the Safety and Health at Work with the participation of the Polish National Inspection and diverse national competitions organised with the initiatives of the Ministry of Agriculture and Rural Development and the Inspection service in particular, aiming at rising awareness on security and health at work especially in agriculture sector.

As to occupational diseases, the report indicates that the number of cases of occupational diseases fell from 2,119 in 2016 to 2,022 in 2018 and 2,065 in 2019 with incidence rates of (per 100,000 employees) 19.5 in 2016, 17,5 in 2018 and 17,5 in 2019. According to the report the most frequent occupational disease was pneumoconiosis (with a decreasing trend, from 603 cases in 2016 to 453 cases in 2019) and Lyme disease (with an increasing trend from 480 in 2016 to 628 in 2019). The Committee also takes note of the figures provided in the report concerning other cases of occupational diseases such as silicosis, asbestosis, asthma, lung cancer, Hepatitis B and C, etc. It also takes note that mining sector represents clearly the highest rates (per 100,000 employees) as to the number of cases of occupational diseases: from 329.7 in 2016 to 216.4 in 2019.

The Committee also takes note of the information provided by the report, that in the agriculture sector, the most frequent occupational disease are infectious and parasitic diseases with an increasing trend between 2016 and 2019 (from 233 to 296). In the agriculture sector, the overall number of occupational diseases shows a increasing trend (from 268 in 2016 to 337 in 2019), as well as an increasing level of incidence rates of such diseases in this sector: from 19.9 in 2016 to 27.8 in 2019. The report gives details concerning the different training activities organised in the field of occupational diseases by the Agricultural Social Insurance Fund, such as training for farmers, students at agriculture schools, awareness raising competitions etc. The Committee requests that the next report provide information on specific measures taken to address the infectious and parasitic diseases in the agriculture sector.

The report does not provide information on work-related suicide or other forms of self-harm, PTSD, burn-out alcohol or other substance use disorders, nor on epidemiological studies conducted to assess the 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 sports 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 also as regards the victims of harassment at work and poor management. The Committee reiterates its request in this regard. It 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.

Activities of the Labour Inspectorate

The Committee previously examined (Conclusions XXI-2 (2017)) the situation regarding the activities of the Labour Inspectorate and considered, in the light of the number of inspection visits and the level of the measures followed up, that labour inspection was effective, and that the situation was in conformity with Article 3§2 of the 1961 Charter.

The targeted question 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.

The report indicates that the total number of inspections performed by the inspectors was 85,959 in 2016, 87,334 in 2018 and 78,690 in 2019. The report also indicates that, in 2019, 83.7% of these inspections took place in workplaces with 1 to 49 employees (61% in workplaces with 1 to 9 employees and 22.7% in workplaces with 10-49 employees). The Committee requests that the next report provide explanations on the reasons for the decrease in the number of inspections performed during the reference period and information on the measures taken to increase the number of inspections by the Labour Inspectorate.

According to the report, the Labour Inspectorate can order different types of sanctions in view of the seriousness of the breaches to the security and health regulation found: such as the orderring of thecessation of the operation of the machines and equipment, prohibition of work or activity, establishment of the circumstances and the causes of accidents. During the inspections, the Labour Inspectorate took 310,825 decisions in 2016, 258,293 in 2018 and 246,009 in 2019. In 2019, the Labour Inspectorate imposed fines in 18,211 breaches found (28,491 in 2016 and 17,142 in 2018), took punitive motion addressed to the tribunal in 1,099 cases (2,746 in 2016 and 1,998 in 2018) and took educative measures in 10,083 cases (16,101 in 2016 and 11,279 in 2018).

The report provides data on the number of entities and workers in different sectors of the economy, covered by inspections each year of the reference period. It appears from this data that in 2016, the number of entities in all sectors of the economy, covered by the inspections was 65,142 (57,937 in 2019) and the total number of workers covered was 3,815,134 (3,840,011 in 2019). However, the report does not provide information on the proportion of workers covered by the inspections to the total number in the labour force or the proportion of entities covered by the inspections relative to the total number of entities in Poland. The Committee reiterates its request for information in this regard and considers that if the requested information is not provided in the next report, there will be nothing to establish that the activities of the Labour Inspectorate are effective in the practice.

The Committee also reiterates its request for information in the targeted questions, on the trends in resources allocated to labour inspection services, including human resources; and also, on whether inspectors are entitled to inspect all workplaces, including residential premises, in all economic sectors. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the labour inspectorate is effective in the practice.

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 Poland 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 Poland.

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 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, the Committee concluded that the situation in Poland was not in conformity with Article 11§1 of the 1961 Charter on the ground that access to healthcare was not ensured because of long waiting times (Conclusions XXI-2 (2017)). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and 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 its 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.).

In reply to the Committee’s targeted question on statistical data on life expectancy across the country and different population groups, the report indicates that, in 2019, life expectancy at birth was 81.8 years for women (in 2015 it was 81.6) and 74.1 years for men (in 2015 it was 73.6). The Committee notes from the World Bank data that life expectancy at birth (average) was 77.8 in 2019, which is a slight increase from 2015, when it was 77.4 (for example, the EU-27 average of 81.3 in 2019). The Committee further notes from the World Bank data that the death rate in Poland increased slightly from 10.4 deaths per 1,000 inhabitants in 2015 to 10.8 deaths per 1,000 inhabitants in 2019).

The Committee notes that there is a substantial gender gap, with women expected to live more than 7 years longer than men. The Committee also notes that according to the report *Poland: Country Health Profile 2019* (OECD, the European Observatory on Health Systems and Policies and the European Commission), inequalities in life expectancy exist not only by gender but also by level of education. The life expectancy of the least educated men is 12 years shorter than that of the most educated, while for women the difference is 5.1 years. It is estimated that almost half of all deaths in Poland are attributable to behavioural risk factors, including dietary habits, tobacco smoking, alcohol consumption and low levels of physical activity.

The report does not provide information responding to the request for 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.). The Committee reiterates its question.

The report provides information about the National Health Programme 2016-2020, the National Programme on the Prevention of HIV and the Fight Against AIDS 2017-2021, as well as about programmes on blood components, treatment of haemophilia and related haemorrhagic defects and other programmes. Also, the report states that measures have been taken to reduce deaths from pulmonary illnesses, to treat cardiovascular illnesses. The report provides statistical information on transplantation. The report also states that since 2017 a support centre for persons in mental crisis exists and since 2016 the programme of prevention of depression in Poland exists.

The report provides statistical information on deaths from different causes and it can be stated from the report that the number of deaths from cardiovascular illnesses was almost the same between 2016 and 2018 and the deaths from malignant tumours increased slightly between 2016 and 2018.

The Committee takes note of all the detailed information regarding the programmes regarding cardiovascular diseases and cancer described in the report. It notes the increase of the deaths from malignant tumours in 2018 and thus asks the next report to provide information on measures taken to reduce the rate of premature deaths resulting from cardiovascular diseases and cancer.

Access to healthcare

In its previous conclusion, the Committee found the situation in Poland not to be in conformity with the 1961 Charter on the ground that access to healthcare was not ensured because of long waiting times (Conclusions XXI-2 (2017)).

In reply, the report states that between 2016 and 2019 the efforts to reduce waiting times intensified and the number of services provided increased, the role of first contact physicians was strengthened, there was an increase in the number of medical staff, enlargement of the group of people who have guaranteed access to non-standard services. According to the report, between 2015 and 2019 the waiting times for cataract treatment reduced by 233 per cent in urgent cases (from 183 to 55 months) and by 118 per cent in other cases (from 587 to 269 months), the waiting times for hip joint stent reduced by 109 per cent in urgent cases (from 303 to 145 months) and by 11 per cent in other cases (from 585 to 525 months), the waiting times for endoplasmic knee joint surgery reduced by 103 per cent in urgent cases (from 379 to 187 months) and by 9 per cent in other cases (from 698 to 639 months), the waiting times for magnetic resonance reduced by 53 per cent in urgent cases (from 58 to 38 months) and by 93 per cent in other cases (from 170 to 88 months), waiting times for tomography reduced by 77 per cent in urgent cases (from 23 to 13 months) and 115 per cent in other cases (from 71 to 33 months). Also, the expenses towards healthcare increased between 70,962,834 złotys (approximately €15.5 million) to 90,127,762 złotys (approximately €19.6 million) between 2016 and 2019. The financing of healthcare for 2019 could not be less than 4.86 per cent of the gross domestic product.

The Committee takes note of the measures taken to reduce waiting times described in the report and notes that the situation improved especially in reducing waiting times for certain procedures. The Committee asks for updated information in the next report on the measures taken in this regard and information about waiting times for various treatments.

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

The report provides information on the maternal and infant mortality. Maternal mortality rate per 100,000 live births was 5 in 2018, a decrease compared to 9 in 2016 (maternal mortality

rate per 100,000 live births was 6 in 2017 in the EU). The data in the report shows that infant mortality rate per 1,000 live births decreased from 4 in 2016 to 3.8 in 2019 (infant mortality rate per 1,000 live births was 3.4 in 2019 in the EU). The report states that more than half of infant deaths are caused by illnesses and certain conditions in the perinatal period, 38 per cent of deaths can be attributed to congenital malformations and the rest – to illnesses developed during childhood or to injuries.

The report also states that in 2016 a law on support to pregnant women and their families was adopted and that it put an accent on complicated pregnancies. Families in a specific situation (miscarriage, stillbirth, death of a newborn after giving birth, birth of a handicapped child) are guaranteed healthcare adapted to the mother and the baby, including psychological care. The report also states that between 2015 and 2019 more than 10 million neonatal screening tests were carried out, and they allowed to treat 1,847 newborns. Between 2015 and 2019 849 intrauterine therapy procedures were carried out and the survival rate of newborns covered by this therapy was between 60 and 75 per cent.

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).

The Committee reiterates its request to provide statistical information about early (underage or minor) motherhood.

The report does not provide any information on access to abortion. The Committee notes that the report of the Working Group on the issue of discrimination against women in law and in practice adopted by the Human Rights Council (25 June 2019) noted that restrictive laws on abortion increase maternal mortality and morbidity rates due to unsafe abortions and are not efficient in reducing the rate of abortion and recommended to Poland to ensure that legal abortion is accessible in practice by removing existing barriers and abortion stigma, including through the proper monitoring and regulation of the practice of conscientious objection and by improving the effectiveness of the complaint mechanism, and consider liberalising the abortion law. However, in 2020 the Constitutional Court of Poland declared that abortion in cases where the foetus has serious and irreversible birth defects is unconstitutional and abortion is only legal if the pregnancy threatens the woman's life or health or if it results from an illegal act such as rape or incest. The Committee reiterates its request for information on access to abortion and asks for information on the costs of abortion and whether they are reimbursed by the State in total or in part. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Poland is in conformity with Article 11§1 of the 1961 Charter on this point.

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

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

The Committee recalls that state recognition of a person's gender identity is itself a right recognised by international human rights law, including in the jurisprudence of the European Court of Human Rights, and is important to guaranteeing the full enjoyment of all human rights. It also recalls that any medical treatment without free informed consent (subject to

strict exceptions) cannot be compatible with physical integrity or with the right to protection of health. Guaranteeing free consent is fundamental to the enjoyment of the right to health, and is integral to autonomy and human dignity and the obligation to protect the right to health (Transgender Europe and ILGA Europe v. Czech Republic, op. cit., §§78 and 82).

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

As a targeted question, the Committee asked for information on measures to ensure informed consent to health-related interventions or treatment (under Article 11§2). The report does not provide any information in this sense. The Committee asks that information be provided in the next report on the measures taken to ensure informed consent to health-related interventions or treatment.

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 provides information on measures taken to treat the ill. The report states that a number of hospitals were adapted to treat Covid-19 patients, medical staff was reorganised, new organisational structures were created to allow the admission to hospitals a larger number of patients infected with Covid-19. Also, three levels of hospitals were created and the third level represents the hospitals with various doctors and are designated to treat the patients who have tested positive for Covid-19 but who also need other specialised treatment. The second level represents departments for infectious diseases and the first level – ordinary hospital network.

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 Poland.

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 Poland was in conformity with Article 11§2 of the Charter, pending receipt of the information requested (Conclusions XXI-2 (2017)).

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 report provides detailed information concerning the relevant preventive measures and activities (information campaigns, publications, recommendations, prevention strategies, training programmes, telephone helplines, web portals, etc.) implemented under the 2016-2020 National Programme for Countering Drug Addiction. These measures are aimed at the general public (including children, teenagers, adults, persons with disabilities, persons at risk of social exclusion, etc.) with a view to reducing the use of drugs, psychotropic substances and other psychoactive substances.

The report gives a detailed description of the national programmes to combat alcoholism, smoking and addiction issues. The Committee takes note of the measures and information and awareness-raising campaigns carried out during the reference period at community and school levels under the said programmes.

As regards sexual and reproductive health education, the report indicates that the National Health Programme for 2016-2020 provides for a number of relevant activities, in particular health education and information, and prevention for various groups, including the health sector personnel. The 2016-2020 Programme for the Comprehensive Protection of Reproductive Health in Poland has also been implemented with a view to increasing the availability of high-quality services in the area of diagnosing and treating infertility.

As regards health education in schools, the report states that the basic curriculum implemented by schools (as defined in the Regulation of the Ministry of Education of 14 February 2017) sets out the objectives of general education and its content. The emphasis is on developing children’s and pupils’ health skills (hygiene, healthy eating, physical exercise), social and civic skills.

The report also indicates that, in accordance with the Regulation of the Ministry of Education of 30 January 2018 on the basic general curriculum in general secondary schools, technical high schools and specialised secondary schools, a new core curriculum has applied in secondary schools since the 2019/2020 school year. According to the report, health education content is included in the core curriculum for the following subjects: biology, safety education, physical education, geography, chemistry and education on family life. Health promotion and prevention programmes are also implemented in primary schools, in

particular under the Schools Programme, which promotes healthy eating among other things.

The report indicates that a programme entitled “ARS, or how to take care of love” implemented in 2013 seeks to reduce the negative effects on health, procreation and society of the use or abuse of psychoactive substances (alcohol, tobacco, drugs, etc.) by teenagers reaching adulthood. It states that the programme was implemented in 44.3% of secondary schools during the 2017/2018 school year. The Committee takes note of the specific activities involving sexual education for pupils with disabilities.

According to the report, the National Health Inspectorate takes measures in the area of health education and promotion with a view to generating attitudes and behaviours conducive to health by promoting healthy lifestyles and raising awareness of the consequences of behaviour involving health risks. The Committee takes note of the examples of the education programmes presented in the report, which cover, among other things, the issues of healthy eating, physical exercise and the prevention of addictive disorders (alcoholism, drug addiction, smoking, etc.).

In its targeted questions, the Committee also asked for information about awareness and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. The report does not contain the information requested. Therefore, the Committee reiterates its request. 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 Poland 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 Poland was in conformity with Article 11§2 with respect to counselling and screening services available to pregnant women and children (Conclusions XXI-2 (2017)). It asked for updated information on counselling and screening, namely medical checks and screening of pregnant women and children, and for all the diseases that constitute the principal causes of premature death.

With regard to counselling and screening in schools, the report indicates that the law of 14 December 2016 on the right to education requires schools to offer pupils the possibility of attending a preventive care clinic by hiring a school nurse or a hygienist. Under the law of 12 April 2019 on health care for pupils, school nurses or hygienists provide pupils with preventive health care in dedicated premises and if there are no such premises in schools, the services are provided in the places specified in contracts for the provision of health care (primary health care clinics).

The report also states that the law on health care for pupils guarantees equal access to health care, regardless of the pupils' places of residence or types of school. The law defines the entities responsible for pupils' health and the rules on co-operation and the exchange of information between those entities, subject to the consent of the pupils' parents or the pupils themselves upon reaching their majority.

In reply to the Committee's question (Conclusions XXI-2 (2017)), the report provides data on the diseases that are the principal causes of premature death in Poland. These are cardiovascular, digestive and respiratory diseases, and cancer.

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 Poland.

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 Poland was in conformity with Article 11§3 of the 1961 Charter (Conclusions 2017).

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 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 Poland is in conformity with Article 11§3 of the 1961 Charter.

Community-based mental health services

In a targeted question, the Committee asked for information regarding the availability and extent of community-based mental health services and on the transition to community-based mental health from former large-scale institutions. The Committee also asked for statistical information on outreach measures in connection with the mental health assessment of vulnerable populations and on proactive measures adopted to ensure that persons in need of mental healthcare are not neglected.

The Committee notes that the information requested is not provided.

The Committee refers to the latest concluding observations on Poland by the Committee on the Rights of Persons with Disabilities (CRPD, 2018), noting the stagnation of the deinstitutionalisation process, the lack of access to community-based services, especially in villages, and the continuation of sheltered housing programmes with European Union funding, such as the establishment of group homes, which are inconsistent with Article 19 of the Convention on the Rights of Persons with Disabilities. The European Observatory on Health Systems and Policies noted that although there is a general shift from institutionalised

mental care towards community-based care, institutionalised care is still the dominant form of mental care provision in Poland (Poland: health system review 2019, Health Systems in Transition, Vol. 21 No. 1, 2019).

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 reiterates its request 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 asks 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 Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Poland is in conformity with Article 11§3 of the 1961 Charter.

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

Therefore, 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 legislative measures taken during the reference period, designed to penalise and monitor the use of new psychoactive substances, as well as about preventive activities, including an awareness-raising campaign aimed at reducing the use of psychotropic substances or activities targeting school-aged children.

The Committee notes that the information requested is not provided, except insofar as preventive measures are concerned. Therefore, the Committee reiterates its request 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 asks 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). The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Poland is in conformity with Article 11§3 of the 1961 Charter.

Healthy environment

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

The report presents an outline of legislative amendments adopted or applying during the reference period, aimed at reinforcing air quality monitoring arrangements, such as the Clean Air Programme 2018 or the National Programme on Air Protection 2015-2020. The report further details the measures taken with a view to addressing the main sources of air pollution, namely emissions from burning poor-quality coal in substandard boilers used to heat individual houses, large volumes of road traffic and the large proportion of old cars, including the thermal modernisation of buildings or by providing the option of introducing low emission zones in urban areas. Several awareness raising campaigns on the environment conducted during the reference period are described. The report provides the result of measurements of the main air pollutants during the reference period, showing that pollution emission limits were exceeded in many Polish regions. A new Water Act adopted in 2017, among other legislative measures, aimed to strengthen the enforcement of waste management rules. Lastly, the report presents data suggesting that water pollution levels have been higher than the target values for most water bodies tested.

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 does not address this question.

Covid-19

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 does not address this question.

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 Poland.

Risks covered, financing of benefits and personal coverage

In its previous conclusion (Conclusions 2017) the Committee noted that the entire active population is covered as regards old age, disability and survivor's pensions, sickness and maternity cash benefits, work injury and unemployment.

The Committee notes from MISSOC that as regards health care, the compulsory social insurance scheme provides benefits in kind to all employees and self-employed and assimilated groups (pensioners, students, farmers, members of insured persons' families). All employees and self-employed persons are covered for sickness, disability, maternity, unemployment, old-age and survivor's. The Committee asks what is the percentage of population covered under health care and family benefit schemes.

Adequacy of the benefits

According to Eurostat data, median equivalised income in 2019 stood at € 594 per month. The poverty threshold, defined as 50% of median equivalised income was therefore €297. 40% of the median equivalised income corresponded to €237 monthly.

In its previous conclusion the Committee considered that the situation was not in conformity with the Charter as the minimum level of unemployment benefit was inadequate.

As regards the minimum levels of income replacement benefits, the Committee notes from the report that Poland maintains its position regarding the material scope of Article 12§1. The Government considers that the assessment of the adequacy of benefits can only be carried out within the framework of Article 12§2 of the Charter, on the basis of the ILO Convention No. 102 concerning minimum standards of social security. According to the report, it is not acceptable to adopt other methods, as there is no basis for them in the text of the Charter.

In addition, the Government contests the assessment method of the Committee, in which the latter assesses amount of an individual benefit, such as unemployment benefit in relation to median equivalised income. Moreover, according to the report, there is a problem of absolute measures and relative measures. Making a link between the amount of benefits and the relative poverty line is not possible. Relative poverty is a particular notion – if the situation of one group improves, the situation of other groups automatically deteriorates, even if it has not really changed. This is one of the reasons why the benefit amounts are generally linked to criteria relating to income expressed in absolute terms and not in relative terms. In the opinion of the Government, the minimum levels of benefits should be compared to the subsistence minimum and not the relative poverty line.

Moreover, according to the report, equivalised income is the net income of the whole household, that is, the income which includes all benefits, including unemployment benefit. Linking the amount of the benefit to the median equivalised income will result in an increase in other benefits and with other factors unchanged, in an increase of the median income. This situation will in turn call for an increase in the unemployment benefit. Such increase will, again, in turn, result in an increase of the median income, if the other factors remain unchanged etc. According to the report, in practice, therefore, it would be very difficult to achieve and maintain the desired ratio between median equivalised income and the amount of the benefit. Such a system can generate a significant tax burden. If the median equivalised income is set as a benchmark, then benefits will also decrease as income falls, for example during an economic downturn.

The Committee notes that the report does not provide information concerning the minimum level of unemployment benefit. The Committee notes from MISSOC that Unemployment Allowance (*Zasilek dla bezrobotnych*) is paid monthly as a percentage of the Basic Unemployment Allowance, depending upon the length of economic activity. In 2019 it amounted to PLN 861.40 (€200) per month for a period of three months and to PLN 676.40 (€157) thereafter.

The Committee recalls that a social security system must guarantee an effective right to social security with respect to the benefits provided under each branch of that system (Conclusions XIII-4 (1996), Statement of Interpretation on Article 12). Under Article 12§1, when benefits are income-replacement benefits, the level of benefits should be such as to stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income (Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits, 9 September 2014, §63). The Committee calculates this on the basis of the Eurostat at-risk-of-poverty threshold value. However, where an income-replacement benefit stands between 40% and 50% of the median equivalised income, other benefits, where applicable, will also be taken into account. Where the minimum level of an income-replacement benefit falls below 40% of the median equivalised income (or the poverty threshold indicator), its aggregation with other benefits cannot bring the situation into conformity.

The Committee considers that the situation which it has previously found not to be in conformity with the Charter has not changed. Therefore, the Committee considers that the situation is not in conformity with Article 12§1 of the Charter as the minimum level of unemployment benefit is manifestly inadequate.

In its previous conclusion the Committee asked whether legislation provides for a reasonable initial period during which an unemployed person may refuse a job that does not match his/her previous occupation and skills without losing unemployment benefits. It notes from the report in this respect that placement services for the unemployed and for employers are provided by a *powiat* labour office on the basis of the law of 20 April 2004 on employment promotion and labour market institutions. The status of an unemployed person depends, among other things, on his aptitude and disposition for work. The concept of "willingness to work" means that a person has the intention, the will and the possibility to work and, at the same time, that there are no reasonable obstacles on the part of that person. The *powiat* labour office can only refer the unemployed person to the employer if the job offered meets the criteria of "suitable work", that is to say:

- a job or other paid work, covered by social insurance;
- the unemployed person has sufficient qualifications or professional experience to perform the work or can do so after prior vocational training or preparation;
- his/her health allows him/her to perform it;
- the duration of the return trip between home and place of work by public transport does not exceed 3 hours;
- for his/her services, he/she will receive a gross monthly salary of at least equal to the minimum salary for a full-time job.

The consequence of an unemployed person's refusal to accept a suitable job offer, without a justified reason, is the loss of his / her status as an unemployed person, which means the loss of the right to unemployment benefit, if the person is entitled to it. Refusing to accept a job offer which does not meet even one of the conditions of "suitable work" cannot result in the loss of the status, nor of unemployment benefit.

The Committee asks the next report to provide information about the minimum levels of all income-replacement benefits: old age, disability, sickness and unemployment.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 12§1 of the 1961 Charter on the ground that the minimum level of unemployment benefit is 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 Poland.

The Committee recalls that Poland ratified Convention No. 102 on 3 December 2003 and has accepted Parts II, V, VII, VIII and X.

The Committee notes that Poland submitted its report under Convention No. 102 in 2016, and that the Committee of Experts on the Application of ILO Conventions and Recommendations made no observation or direct request to the Government of Poland concerning the above-mentioned accepted parts.

Conclusion

The Committee concludes that the situation in Poland 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 Poland.

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”).

The Committee deferred its previous conclusion pending receipt of information concerning the evolution of unemployment benefit (Conclusions XXI-2 (2017)). The Committee’s assessment will therefore relate to the information provided by the Government in response to the questions raised in the previous conclusion as well as the two targeted questions with regard to Article 12§3 of the Charter, 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 targeted 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.

Development of the social security system

The Committee recalls that Article 12§3 requires States to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§1 and 12§2 have not been met or if these provisions have not been accepted. The expansion of schemes, protection against new risks or an increase in the level of benefits are all examples of improvement. A partly restrictive development in the social security system is not automatically in breach of Article 12§3. It should be assessed in the light of Article 31 of the 1961 Charter or Article G of the revised Charter. The assessment of the situation is based on the following criteria:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.);
- the extent of the changes (categories and numbers of people concerned, levels of allowances before and after alteration);
- the reasons given for the changes (aims pursued) and the social and economic policy context in which the changes arise;
- the necessity of the reform;
- the existence of social assistance measures for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);
- the results obtained by such changes.

The Government’s report provides information on the development of family benefits. In particular, it states that the care benefit was increased on 1 January 2016 to the level of the lowest net salary (Law of 24 April 2014 amending the Law on Family Benefits), and has been adjusted upwards every year since 2017. Several education and childcare allowances, including for children with disabilities, were also increased in 2016. In addition, a new benefit (parental benefit) was introduced by the Law of 24 July 2015 amending the Law on Family Benefits and certain other laws (entered into force on 1 January 2016). This benefit is

granted to women who have given birth and are in receipt neither of maternity benefit nor of a maternity allowance (e.g. unemployed persons, regardless of whether they are registered with the employment agency; students; persons working under civil-law contracts; persons employed or engaged in a non-agricultural occupation).

The Government also states that the minimum retirement pension was increased in 2016 and 2018 (amendments to the Law of 17 December 1998 on Social Insurance Fund Retirement and Invalidity Pensions). Further to the changes to the level of the minimum retirement pension and the adjustment mechanism, the minimum retirement pension has increased by 25% since 2016.

In addition, a one-off cash supplement was paid in 2016 to some retired persons, pensioners and persons in receipt of early retirement benefits. Implementation of the Retirement Pension+ programme also began in 2019 (Law of 4 April 2019 on the one-off cash benefit for retired persons and pensioners). This programme provides for the payment of a one-off supplementary benefit to any person in receipt of a retirement pension or other pension, regardless of its amount. It concerns retired persons and pensioners in the general insurance scheme, retired persons and pensioners in the agricultural scheme, uniformed services pensioners, persons in receipt of transitional pensions, teachers' compensatory benefits, early retirement allowances and benefits, social assistance pensions and survivor's pensions. In 2019, 9.74 million people received this benefit (including 6.7 million retired persons, 2.62 million pensioners and 282,000 persons in receipt of social assistance pensions).

In its previous conclusion the Committee asked for updated figures concerning unemployment benefits. In this connection, the Government states that there has been no change in the percentage of unemployed persons entitled to unemployment benefits. The Committee points out that it has found the minimum level of unemployment benefit to be inadequate since Conclusions XVII-1 (2004). The Committee therefore requests that the next report provide detailed information on the trend in unemployment benefits, in terms of the amounts, the duration of payment and the total number of persons covered out of the total active population. The Committee points out that should the next report not provide the information requested, there will be nothing to show that the situation is in conformity with Article 12§3 of the Charter. In the meantime, the Committee reserves its position on this point.

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.

The Committee notes that the Government has not provided any information about the social security coverage of digital platform workers. The Committee therefore reiterates its

question. It asks for 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). In the meantime, the Committee reserves its position on this point.

Covid-19

In response to the second targeted question, the Government lists the measures introduced under the Law of 2 March 2020 on specific measures to prevent and combat covid-19, other infectious diseases and the resulting crises, and under the Law of 14 May 2020 amending certain laws relating to protective measures concerning the spread of SARS-CoV-2, in particular:

- The validity of disability certificates issued for given periods and the validity of temporary certificates of incapacity for work and incapacity to live independently issued by the authorities responsible for retirement and other pensions was extended. The extension of the validity of these certificates automatically extended entitlement to family benefits (including the care benefit), allowances for carers and maintenance fund benefits.
- Any reduction in income from employment, other paid work or a non-agricultural occupation caused by the measures taken to deal with the pandemic was deemed to be a “loss of income” for the purpose of determining entitlement to family benefits and maintenance fund benefits within the meaning of the Law of 28 November 2003 on family benefits and the Law of 7 September 2007 on assistance for persons entitled to maintenance. This means, for example, that a parent not in receipt of family allowances or maintenance fund benefits because their income exceeded the income criterion for entitlement to such benefits could claim those benefits when their income had been reduced because of the steps taken to deal with the pandemic.

Conclusion

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

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 Poland.

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

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 notes that in its previous conclusion it considered that the situation was in conformity with the Charter as regards equal access to the social security system.

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 family benefits are payable to persons resident in Poland, unless the provisions on the coordination of social security systems or bilateral international social security agreements provide otherwise. The conditions for granting family benefits are the same for foreigners and for Polish citizens. The condition of residence in Poland applies to Polish citizens and foreigners. Family benefits are currently due to (taking into account the changes introduced in 2016-2019):

Polish citizens,

foreigners:

- to whom the provisions relating to the coordination of social security systems apply;
- if this results from bilateral social security agreements concluded by Poland;
- residing in Poland on the basis of a permanent residence permit, a residence permit for the long-term resident of the European Union, a temporary residence permit for exercising a highly qualified profession, or a temporary residence permit if they hold a long-term EU resident permit granted by another European Union member state and intend to engage in work or economic activity in Poland, or intend to undertake or continue studies or vocational training, or demonstrate that there are other circumstances justifying their residence in Poland;
- holders of a residence permit bearing the words "access to the labor market", with the exception of nationals of third countries who have been authorized to work in the territory of a Member State for a period not exceeding six months, nationals of third countries admitted for the purposes of studies or seasonal work and nationals of third countries who are authorized to work on the basis of a visa;

- residing in Poland:

- on the basis of a temporary residence permit to carry out work within the framework of an intra-company transfer or a temporary residence permit for the long-term mobility of an executive, a specialist or "an intern, as part of an intra-company transfer (new solution), or
- as part of the use of short-term mobility for an executive, specialist or trainee as part of an intra-company transfer (new solution) if they are staying in Poland with members of their family, with the exception of foreigners who have been authorized to stay and work for a period not exceeding 9 months, unless the provisions relating to the coordination of security systems social security or bilateral international social security agreements provide otherwise;

- residing in Poland:

- on the basis of a temporary residence permit for research purposes or a temporary residence permit for the long-term mobility of researchers (new solution),
- on the basis of a national visa to carry out research or development work (new solution),
- in the context of short-term researcher mobility, with the exception of foreigners who have been authorised to stay in Poland for 6 months, unless the provisions on the coordination of social security systems or bilateral international social security agreements provide otherwise.

The majority of foreigners acquire the right to family benefits because they have the right to temporary stay in Poland, which is linked to the right to work – these foreigners have a residence card with the words "access to the labor market". The right to benefits is not granted to third-country nationals who have obtained a work permit for a maximum of 6 months, to third-country nationals admitted for the purpose of studies or seasonal work and to nationals of third countries who have the right to work on the basis of a visa. The right to family benefits is also granted to foreigners who have the right to work in Poland, by law, on the basis of special provisions or on the basis of a work permit granted under special provisions. The intention of the legislator, with regard to the rights of foreigners, is that these

benefits are due to persons who work legally in Poland and on whom public charges are imposed in Poland (in particular taxes) and whose centre of interest life is to be found in Poland, or at least have a lasting relationship with Poland.

In its conclusion on Article 16 (Conclusions 2019) the Committee considered that the 10-year residence requirement to be eligible to family benefits for foreigners without a work permit was excessive. The Committee asks the next report to indicate whether this conditions still holds and in the meantime it reserves its position on this issue.

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 considered that the situation was not in conformity with the Charter as the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties. The report indicates that steps were taken to obtain authorisation to negotiate a social security agreement with Armenia. The Committee considers that in the absence of any new information, the situation remains unchanged and therefore, it reiterates its previous finding of non-conformity. The Committee asks how the maintenance of accruing rights and accumulation of insurance periods is guaranteed in the absence of bilateral agreements.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 12§4 of the 1961 Charter on the ground that to the right to maintenance of accruing rights is not guaranteed.

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 Poland.

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.

When assessing the national situation under this provision during its previous review, the Committee considered that, due to the lack of information, it could not specifically examine whether there were mechanisms in place to ensure that persons in need could benefit from personal assistance and counselling services free of charge, and whether such services and institutions were sufficiently well distributed on a geographical basis. The Committee thus requested updated information on how these requirements were being met in Polish legislation and practice.

In response, the report provides a detailed description of the legislative framework, outlining various types of social services, ranging from cash benefits to non-financial assistance, including providing information on rights and entitlements and specialist counselling, and specifying persons eligible and the respective conditions. The Committee notes that the situation, as regulated by the 2004 Act on Social Assistance has already been assessed (Conclusions XIX-2) and found to be in conformity with the Charter as regards the operation of social services aimed at preventing, abolishing or alleviating need, when the Committee took note of the different bases for granting such assistance, including hardship, lack of housing, crisis situations, the need for maternity protection, etc. The Committee also notes the number of people who have received social assistance and their distribution, i.e. by type of service and by region, to reflect their geographical distribution. The report confirms that local authorities, which are obliged by law to perform social assistance tasks, cannot refuse assistance to a person in need. The Committee asks about the tasks performed by the local authorities, in particular in relation to advice and support in accessing social services. Likewise, the bodies to which local government has entrusted the implementation of social assistance tasks may not refuse assistance. The Committee calls for the next report to specify how these institutions providing social services are geographically distributed and whether they are located throughout the country within a reasonable distance of potential beneficiaries. In the meantime, it reserves its position on this aspect.

The report also provides examples of programmes introduced to implement the legislative framework, such as "Active forms of combating social exclusion – new dimension 2020", "Active attitudes of adolescents – improving skills, entrepreneurship and environmental responsibility", "Homelessness Assistance Programme", "Social support for people with mental health problems" and "Meals at school and at home".

The report does not provide information on mechanisms to ensure that people in need can access free personal assistance and counselling services. In particular, there is no description of a system for monitoring such services or of a system in place for complaints about lack of access to or the refusal to provide services. The Committee therefore

considers that it has not been established that the situation is in conformity with the Charter in this respect.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 13§3 of the 1961 Charter on the ground that it has not been established that there are mechanisms in place to ensure that persons in need can receive personal assistance and counselling services free of charge.

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 Poland.

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 held that the situation was not in conformity with Article 14§1 of the Charter due to the existence of an excessive length of residence requirement (five years on uninterrupted residence) for the nationals of other States Parties to access social services (Conclusions XXI-2 (2017)). This problem has already been discerned by the Committee in its precedent conclusions (Conclusions XVII-2 (2007), XIX-2 (2009) and XX-2 (2013)). During the discussion of the non-conformity situation by the Governmental Committee in 2018 (report on conclusions XXI-2 (2017) of the 1961 ESC, GC(2018)23), the Polish Representative recalled the provisions in force and submitted that the Ministry of Family, Labour and Social Policy had received no signal from the local or regional administration indicating the need to change the personal scope of the Social Assistance Act. Nor have such needs been reported by other institutions, including those responsible for the status of foreigners in Poland. The GC took note of the information provided by the representative of Poland and decided to await the next assessment of the Committee.

The report indicates that no amendments were made to the Social Assistance Act during the reference period. According to the Government, Article 14§1 makes it clear that it concerns the State’s obligation to ensure the effective functioning of the social assistance system within which the rights provided for in Article 13 can be exercised. Article 14(1) does not mention conditions or guarantees for access to social assistance (social benefits) or social services. This is logical as the conditions of access are clearly and exhaustively set out in Article 13(1) and (4). The Committee recalls that imposing a length of residence requirement that is too long is contrary to the Charter (Conclusions XVII-2, Poland) and therefore it reiterates its conclusion of non-conformity.

The Committee further notes that no fundamental changes have been introduced in the general organization of social assistance and the solutions provided for in the Social Assistance Act still apply. The report provides that in order to improve the professional development of social work staff, in 2016-2019 within projects financed by the European Social Fund Knowledge-Education-Development 2014-2020, first and second degree professional specialisation courses have been carried out and, furthermore, the Minister of Family, Labour and Social Policy adopted Regulation 2016 on social work supervision.

The Committee acknowledges the information submitted in reply to its previous questions (see Conclusions XXI-2 (2017) on effective access to social services (total number of

beneficiaries, the number of beneficiaries per category of social services, number and geographical distribution of services, number and qualifications of staff).

In reply to the Committee's targeted questions, the report provides that provision of social services continued, albeit in an amended form. In order to ensure the continuity of operation, to facilitate the organisation of the work of social assistance institutions and to protect social assistance workers, the Ministry of Family, Labour and Social Policy has prepared and issued various relevant instructions: on how to proceed in granting benefits in the situation of risk of infection with the SARS-CoV-2 virus; on support for people living in social care homes; on the implementation of specialised care and treatment, including the implementation of services for people with mental disorders and on support for the homeless. The Law on Special Measures for the Prevention and Control of COVID-19, Other Infectious Diseases and Related Crisis Situations and some other laws have been introduced, with a view to, among others, facilitating the examination of the situation of persons requesting assistance, extending the right to benefits, using non-contact communication methods. Municipalities received recommendations regarding the provision of assistance in the form of cash benefits for the purchase of a meal or food, or benefits in kind in the form of food products, during the closure of educational institutions. The report further lists measures taken to ensure effective functioning of social assistance institutions and protection of their staff. It also describes measures taken in the area of financial support to these institutions. The report does not contain information on any specific measures taken in anticipation of future crises of such type.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 14§1 of the 1961 Charter on the ground that access to social services by nationals of other States Parties is subject to an excessively long residence requirement.