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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-4 (2023)

CROATIA

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter, the Committee, the national reports as well as the Statement of interpretation on Article 17 adopted by the Committee during the supervision cycle can be found in the General Introduction to all Conclusions.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report requested from the States Parties concerned the following provisions of the thematic group IV " Children, families and migrants ":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19).

The reference period was from 1 January 2018 to 31 December 2021.

The following chapter concerns Croatia, which ratified the Revised European Social Charter on 26 February 2003. The deadline for submitting the 14th report was 31 December 2022 and Croatia submitted it on 4 March 2023.

The Committee recalls that Croatia was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2011).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If, in its previous conclusion (Conclusions 2011), the Committee concluded that the situation was in conformity, there was no examination in 2023.

Croatia has not accepted the following provisions from the above-mentioned group: 19§§1-10.

The conclusions relating to Croatia concern 16 situations and are as follows:

- 4 conclusions of conformity: Articles 7§2, 7§3, 7§10, 8§1.
- 12 conclusions of non-conformity: 7§1, 7§§4-9, 8§§2-4, 16, 17.

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

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 7§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

The Committee has observed that many States’ legislation is in conformity with Article 7§1 of the Charter regarding the minimum age for employment. Nevertheless, the Committee is concerned about the situation in practice. There are data that suggest that in many countries there are significant numbers of children working illegally. However, there are few official data on the extent of the problem. Therefore, as targeted questions to the States, the Committee asked for information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. It also asked for information on the number of children actually working, as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally.

In its previous conclusion (Conclusions 2011), the Committee considered that the situation in Croatia was in conformity with Article 7§1 of the Charter. The Committee wished to be informed about the labour inspection activities to detect child labour.

According to the report, the State Inspectorate is a state administration body mandated primarily for inspection tasks. It also has certain powers in relation to the protection of children and minors, primarily through the suppression of various forms of illegal child labour.

Labour inspectors in the field of labour relations, hold specific powers for overseeing the implementation of regulations that govern certain forms of work and the employment of minors. In 2018, labour inspectors in the field of labour relations, operating from all regional offices of the State Inspectorate, conducted a total of 10 109 inspections (10 100 inspections in 2019, 8 101 inspections in 2020, and 8 247 inspections in 2021). These inspections focused on ensuring compliance with regulations in the field of labour and employment. Out of the total inspections, 20 cases were revealed regarding violations related to 24 minors. Most of these violations involving minors were identified in the hospitality industry.

The report states that the Labour Act includes provisions on the minimum age for employment, the legal capacity of minors to enter employment contracts, prohibitions on certain jobs for minors, restrictions on overtime, night work, and on work exceeding eight hours within a 24-hour period. It also outlines the minimum duration of annual leave for minors. Labour inspectors are authorised to prohibit the employment of minors in specific jobs and can prevent employers from requiring minors to work overtime. The Act includes penal provisions for violations of these regulations.

Conclusion

The Committee concludes that the situation in Croatia is in conformity with Article 7§1 of the 1961 Charter.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Higher minimum age in dangerous or unhealthy occupations

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

The Committee recalls that no targeted questions were asked for Article 7§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusions 2011) the Committee found that the situation was in conformity with the Charter. In reply to the Committee's question, the report states that to protect minors from specific hazards to their safety, health, morality, or development, the Ordinance on Prohibiting Employment of Minors in Certain Jobs (Official Gazette No. 89/15, 94/16, and 109/19) identifies jobs where minors cannot be employed due to factors such as lack of experience, awareness of potential dangers, or insufficient maturity. Moreover, the Ordinance on Permitting Employment of Minors in Certain Jobs and Participation in Certain Activities (Official Gazette No. 62/10) safeguards health, safety, and development. It specifies jobs where a minor may work only after determining their medical fitness, including the process of determining medical fitness, deadlines for re-evaluation, and the issuance of a medical certificate.

Furthermore, under Article 38 of the Occupational Safety and Health Act, the employer shall be obliged to provide special occupational health and safety for a minor for the purpose of preserving his or her unimpaired mental and physical development. A minor may not perform work with special conditions, except for minors who have completed vocational secondary education for this work and who meet other prescribed requirements. For the purpose of minors' safety and health protection at work, the employer shall be obliged to: adjust conditions and working time organization for the purpose of eliminating safety and health risks; ensure other appropriate work i.e. a workplace, if adjustments are not feasible or justifiable; ensure the implementation of other occupational health and safety rules, in accordance with a special regulation.

Under Article 91, paragraph 3, subparagraph 1 of the Occupational Health and Safety Act, in conducting an inspection of occupational health and safety, an inspector shall, by means of an oral decision and until such time as the identified deficiency has been remedied, order the employer to remove from the workplace any employee for whom it fails to provide evidence showing that this employee meets all the requirements prescribed by this Act and other regulations.

Conclusion

The Committee concludes that the situation in Croatia is in conformity with Article 7§2 of the 1961 Charter.

Article 7 - Right of children and young persons to protection

Paragraph 3 - Prohibition of employment of young persons subject to compulsory education

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

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

The Committee deferred its previous conclusion (Conclusions 2011), and asked how many daily (and weekly) children were authorised to work during the school terms.

According to the report, children and minors who attend compulsory elementary education may, subject to the prior approval of the body responsible for social welfare, participate in the activities of filmmaking, advertising, preparation and performance of artistic, stage or similar cultural works, and in sports competitions, for remuneration, to the extent that it does not endanger their health, safety, morality, education or development. This is not an employment relationship, but such work is paid through other payment contracts signed with the children's parents with the prior agreement of the social services. According to Article 19a(8) of the Labour Act, the total duration of work and activities, as well as the daily and weekly duration of activities, including breaks, must not endanger the health and safety of children and young people and their ability to fulfil their school obligations.

Conclusion

The Committee concludes that the situation in Croatia is in conformity with Article 7§3 of the 1961 Charter.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Length of working time for young persons under 16

The Committee takes note of the information contained in the report submitted by Croatia. It also takes note of observations submitted by the European Trade Union Confederation (ETUC).

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

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

In its previous conclusion, the Committee considered that the situation in Croatia was not in conformity with Article 7§4 of the 1961 Charter on the ground that working hours for persons between the age of fifteen and sixteen were excessive. The Committee noted that the maximum working hours of a young worker who has attained the age of fifteen may not be longer than 7 hours a day or 35 hours per week. In exceptional cases, the limit can be raised to 8 hours a day or 40 hours per week (Conclusions XIX-4).

The report provided no information in reply to the finding of non-conformity. The Committee considers that the above limitation of working hours is satisfactory for young workers over the age of sixteen, but is insufficient in respect of workers under sixteen (Conclusions 2002, Italy). Therefore, given that this limit applies also to workers between fifteen and sixteen, the Committee reiterates its conclusion of non-conformity.

The Committee also previously requested information on the activity of the Labour Inspectorate concerning working time regulations for young workers. The report does not reply to this request.

Due to the failure to provide the requested information, the Committee concludes that the situation in Croatia is not in conformity with Article 7§4 of the 1961 Charter.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 7§4 of the 1961 Charter on the ground that permissible working hours for young workers under 16 years of age are excessive.

Due to the failure to provide the information listed below the Committee concludes that the situation in Croatia is not in conformity with Article 7§4 of the 1961 Charter as regards the enforcement of this right. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the Charter:

List of questions:

- activity of the Labour Inspectorate concerning working time regulations for young workers.

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

The Committee takes note of the information contained in the report submitted by Croatia. It also takes note of observations submitted by the European Trade Union Confederation (ETUC).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 7§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

In its previous conclusion, the Committee considered that the situation in Croatia was not in conformity with Article 7§5 of the 1961 Charter on the ground that apprentices do not enjoy a right to appropriate allowances (Conclusions XIX-4 (2015)). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity, and to the targeted questions.

Fair remuneration for young workers and apprentices

The Committee recalls that apprentices may be paid lower wages, since the value of the on-the-job training they receive is taken into account. However, the apprenticeship system must not be used to circumvent the payment of fair wages to young workers. Accordingly, the term should not last too long and, as skills are acquired, the allowance should be gradually increased throughout the contract period, starting from at least one-third of the adult starting wage or minimum wage at the commencement of the apprenticeship to at least two-thirds at the end.

The Committee recalls that young worker’s wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly. For 15/16 year-olds, a wage of 30% lower than the adult starting wage is acceptable. For 16/18 year-olds, the difference may not exceed 20%. The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker’s wage which respects these percentage differentials is not considered fair.

In its previous conclusion (Conclusions XIX-4 (2015)), the Committee requested information on the situation of young workers with regard to remuneration. In particular, the Committee emphasised that in order to assess the situation it must have information on the minimum or lowest wages of young workers, calculated net, i.e. after deduction of taxes and social security contributions, as well as information on starting wages or minimum wages of adult workers. These net amounts must be calculated for a single person. Lastly, the Committee reiterated its request for detailed figures showing the average net value of young workers’ remuneration compared to the net value of adult workers’ starting or agreed salaries.

Since Croatia has not accepted Article 4§1 of the 1961 Charter, the Committee makes its own assessment on the adequacy of young workers wage under Article 7§5. For this purpose, the ratio between net minimum wage and net average wage is taken into account.

The report states that the legal system in the Republic of Croatia treats all workers, including those under 18, in the same way as all other mentioned categories when it comes to the right to the minimum wage and the wage in general.

Also, the minimum wage is prescribed in the monthly gross amount, the amount is determined annually by a regulation of the Government and currently amounts to EUR 700 gross. The Minimum Wage Act (Official Gazette No. 118/18 and 120/21) stipulates that the minimum wage is also considered to be the wage from the extended collective agreement, according to the level of complexity of work.

The Committee notes from Eurostat that the average monthly gross salary amounts to 1,389 EUR.

The Committee notes that apprentices are remunerated at the level of the adult reference wage. It further notes that, even if for the purposes of Article 4§1 it will yet require additional information to assess whether it is in conformity under the Charter, under Article 7§5 it is not required that the young workers are paid 100% of the adult wage. Accordingly, the young workers' wage being equal to the adult wage, pursuant to the rules, goes beyond the minimum required under the Charter, the adult minimum wage exceeding 50% of the average salary. In the light of the above, the Committee considers that the situation is in conformity with Article 7§5 of the Charter in this regard.

As regards the apprentices pay, the report provides that in accordance with Article 5 of the Apprenticeship Agreement referred to in the Regulations on Minimum Conditions for Apprenticeship Contracts (Official Gazette No. 63/14), the basis for the monthly compensation paid to the student is:

- 10% in their first year of apprenticeship
- 20% in their second year of apprenticeship
- 25% in their third year of apprenticeship
- the percentage is taken from an average net salary in economy for the previous year in the Republic of Croatia.

The Committee notes that the allowances paid to apprentices continue being below the levels required by the Committee, as they do not amount to one-third of the adult wage at the start of the apprenticeship or two-thirds by the end, and therefore reiterates its conclusion of non-conformity.

Fair remuneration in atypical jobs

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

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

The report states that the legal system in the Republic of Croatia treats all workers, in the same way as all other mentioned categories when it comes to the right to the minimum wage and the wage in general. Zero-hours contracts are not allowed in the Republic of Croatia.

Enforcement

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

The report provides information on awareness raising measures aimed at children and young people regarding the risks and dangers associated with trafficking in human beings. No information is provided on measures taken to ensure that the right of young persons to fair pay is effectively enforced. Due to the failure to provide the information concludes that the situation in Croatia is not in conformity with Article 7§5 of the Charter as regards the enforcement of this right.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 7§5 of the 1961 Charter on the ground that allowances paid to apprentices are not adequate.

Due to the failure to provide the information listed below the Committee concludes that the situation in Croatia is not in conformity with Article 7§5 of the Charter as regards the enforcement of this right. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article C of the Charter.

List of questions:

- enforcement of the right of young persons to fair pay in practice.

Article 7 - Right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

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

The Committee recalls that no questions were asked for Article 7§6 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee recalls that Article 7§6 requires that time spent on vocational training by young people during normal working hours must be treated as part of the working day (Conclusions XV-2 (2001), Netherlands). Such training must, in principle, be done with the employer’s consent and be related to the young person’s work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked (Conclusions V (1977), Statement of Interpretation on Article 7§6). This right also applies to training followed by young people with the consent of the employer and which is related to the work carried out, but which is not necessarily financed by the latter.

In its previous conclusion, the Committee found that the situation in Croatia was not in conformity with Article 7§6 of the Charter on the ground that it has not been established that the time spent by young workers in vocational training is considered as working time (Conclusions 2019).

In its previous conclusion, the Committee asked for a description in the next report of the situation with regard to the inclusion of vocational training hours in the normal working day so that it can assess the situation. It asked in particular under what legislation and collective agreements hours spent by young people on vocational training during normal working hours with their employer’s consent are considered to form part of the working day and how much time is generally granted to young people for this purpose. It also asked for confirmation that time spent on vocational training is remunerated and on what basis.

The Committee further asked if the measures described apply to all categories of young workers. Otherwise, it asked for an estimate of the proportion of those who are not covered and what categories they belong to. It also asked why some workers, if any, are not covered, and if particular measures are taken to cater for their situation.

Lastly, the Committee asked what measures are taken to ensure that the relevant legislation and regulations are applied in practice. The report does not provide the requested information. The Committee thus reiterates its conclusion of non-conformity.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 7§6 of the 1961 Charter on the ground that the time spent by young workers in vocational training is not considered as working time.

Article 7 - Right of children and young persons to protection

Paragraph 7 - Paid annual holidays

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

The Committee recalls that no targeted questions were asked for Article 7§7 of the 1961 Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Croatia was in conformity with Article 7§7 of the 1961 Charter, pending receipt of the information requested (Conclusions XIX-4 (2011)).

The Committee asked whether, in practice, young workers under 18 years of age could waive their paid annual leave and whether, in the event of illness or accident during holidays, they were entitled to take the leave at some other time. The Committee also asked for information about the monitoring activities of the labour inspectorate during the reference period. The report does not contain the information requested.

Due to the failure to provide requested information on whether, in practice, young persons under 18 years of age can waive their paid annual leave; whether, in the event of illness or accident during holidays, they are entitled to take the leave at some other time; and on the number and nature of violations detected, as well as the sanctions imposed for breach of the regulations regarding paid annual holidays of young workers under 18 years of age, the Committee concludes that the situation in Croatia is not in conformity with Article 7§7 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Croatia is not in conformity with Article 7§7 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the Croatia of their reporting obligations under Article 21 of the 1961 Charter.

List of questions/Information missing:

- whether, in practice, young persons under 18 years of age can waive their paid annual leave and whether, in the event of illness or accident during holidays, they are entitled to take the leave at some other time;
- on the number and nature of violations detected, as well as the sanctions imposed for breach of the regulations regarding paid annual holidays of young workers under 18 years of age.

Article 7 - Right of children and young persons to protection

Paragraph 8 - Prohibition of night work

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

The Committee recalls that no targeted questions were asked for Article 7§8 of the 1961 Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Croatia was in conformity with Article 7§8 of the 1961 Charter, pending receipt of the information requested (Conclusions XIX-4 (2011)).

The Committee asked for data on the number and nature of violations reported by the Labour Inspectorate and on the penalties imposed for breach of the regulations on the prohibition of night work for young workers under 18 years of age. The report does not provide the requested information.

Due to the failure to provide requested information on the number and nature of the violations detected, as well as of the sanctions imposed for breach of the regulations regarding the prohibition of night work for young workers under 18 years of age, the Committee concludes that the situation in Croatia is not in conformity with Article 7§8 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in the Croatia is not in conformity with Article 7§8 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

List of questions/Information missing:

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

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

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

The Committee recalls that no targeted questions were asked for Article 7§9 of the 1961 Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Croatia was in conformity with Article 7§8 of the 1961 Charter, pending receipt of the information requested (Conclusions XIX-4 (2011)).

The Committee asked for information on the frequency of medical examinations after the initial check-up, pursuant to the terms of the Minister of Labour Ordinance on the jobs that may be done by minors and activities in which minors may participate (Official Gazette 144/09). The Committee also asked for information on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young workers under 18 years of age. The report does not provide the requested information.

Due to the failure to provide requested information on the frequency of medical examinations after the initial check-up, pursuant to relevant law and regulations and on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young workers under 18 years of age, the Committee concludes that the situation in Croatia is not in conformity with Article 7§9 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Croatia is not in conformity with Article 7§9 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

List of questions/Information missing:

- on the frequency of medical examinations after the initial examination, pursuant to relevant law and regulations;
- on the number and nature of the violations detected, as well as on the sanctions imposed on employers for breach of the regulations regarding the regular medical examinations of young workers under 18 years of age.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 7§10 of the 1961 Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

Previously, pending receipt of the information requested, the Committee deferred its conclusion (Conclusions XIX-4). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of deferral and the targeted questions.

Protection against sexual exploitation

In its previous conclusion, the Committee asked whether the law protected children against all forms of sexual exploitation (child prostitution, child pornography and trafficking of children) up to the age of 18, irrespective of the lower age of sexual consent and whether child victims of sexual exploitation could be prosecuted. The Committee considered that if this information was not provided in the next report, there would be nothing to establish that the situation was in conformity with Article 7§10 of the 1961 Charter (Conclusions XIX-4).

In the targeted question, the Committee asked for updated information on measures taken to strengthen the protection of children, including migrant, refugee, and displaced children, from sexual exploitation and abuse (in particular, in response to the risks posed by the Covid-19 pandemic) during the reference period, including information on the incidence of such abuse and exploitation.

The Committee notes that Article 163 of the Criminal Code provides for criminal responsibility for sexual abuse of children facilitated through the use of modern technologies (child pornography). Article 106 of the Criminal Code provides for criminal responsibility for trafficking in children, including for prostitution.

The Committee notes from other sources (GRETA Evaluation Report, Third evaluation round, GRETA(2020)10, 3 December 2020), that GRETA urged the Croatian authorities to adopt a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities. The Committee reiterates that child victims of sexual exploitation should not be prosecuted for any act connected with this exploitation (Conclusions XVII-2, United Kingdom).

In reply to the targeted question, the report states that on 30 August 2018, the Government adopted the Protocol on the Treatment of Unaccompanied Children, the objective of which is to establish a robust and effective national system for the treatment of unaccompanied children. In addition, in Croatia, applicants for international protection are granted access to the national mechanism for the prevention and treatment of sexual and gender-based violence. Special attention is given to vulnerable groups.

Protection against the misuse of information technologies

In its previous conclusion, the Committee asked whether internet service providers were responsible for or were under an obligation to remove or prevent accessibility to illegal material to which they had knowledge, whether there were voluntary codes of conduct for multi media service providers and whether there existed internet safety hotlines through which illegal material could be reported. The Committee considered that if this information was not provided in the next report, there would be nothing to establish that the situation was in conformity with Article 7§10 of the 1961 Charter (Conclusions XIX-4).

In the targeted question, the Committee asked for information on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).

The report states that in 2020, the Ministry of the Interior initiated the formation of an interdepartmental working group which developed a plan of priority activities for implementing the Council of European Union's conclusions on combating the sexual abuse of children. This plan regulates the responsibilities of internet service providers and implements preventive intervention programmes and other measures. There are websites and a phone number to report child abuse.

In reply to the targeted question, the report states that Article 161§1 of the Criminal Code expands the scope of the perpetrator's intention to encompass criminal offences related to the exploitation of children for pornographic purposes. Article 164 of the Criminal Code provides for criminal responsibility for exploiting children for pornographic performances.

The report further states that there is a programme on Safety and Protection of Children on the Internet and Social Networks, as well as Web Detectives which educates children so that they can recognize inappropriate and potentially harmful content on the Internet. The "Say No" campaign addresses the issue of online child abuse.

Protection from other forms of exploitation

In its previous conclusion, the Committee asked for information on the number of street children, as well as information on measures taken to assist such children and, where appropriate, their families (Conclusions XIX-4).

The report states that in 2020 and 2021, the police undertook wide-ranging action to combat child begging. The intensified efforts focused on street begging as a form of labour exploitation or exploitation for the commission of unlawful acts and aimed at the early detection of criminal offences such as trafficking in human beings and violations of children's rights, the identification of victims and the prosecution of perpetrators.

Covid-19

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

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

The report states that, in 2020, reports on injuries inflicted on a child by a family member significantly increased, then decreased in 2021. During the pandemic, the Croatian police also received 515 online reports concerning various forms of child abuse and domestic violence. Furthermore, citizens could call the 192 number to report child abuse and domestic violence.

Conclusion

The Committee concludes that the situation in Croatia is in conformity with Article 7§10 of the 1961 Charter.

Article 8 - Right of employed women to protection

Paragraph 1 - Maternity leave

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

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

In its previous conclusions (Conclusions XIX-4), the Committee found that the situation was in conformity with Article 8§1 of the 1961 Charter pending receipt of the information requested as to whether rules on maternity benefits applied equally to women in the public sector.

Right to maternity leave

The Committee previously asked whether the maternity leave system applicable to women in the private sector also applied to women employed in the public sector (Conclusions 2011). The Committee notes from MISSOC that the same regime applies to women employed in the public sector.

Right to maternity benefits

The Committee previously noted that women are entitled during compulsory periods of leave to 100% of their average wage over the last month prior to maternity leave. The benefit for the rest of the period of leave amounts to 100% of the worker's average salary over the last six months prior to maternity leave. The qualifying period is 12 consecutive months of insurance through employment or unemployment.

The Committee previously asked whether the same regime applies to women employed in the public sector (Conclusions 2011). The Committee notes from MISSOC that the same regime applies to women employed in the public sector.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had an impact on the right to paid maternity leave.

The report states that the Covid-19 epidemic had no impact on maternity leave.

Conclusion

The Committee concludes that the situation in Croatia is in conformity with Article 8§1 of the 1961 Charter.

Article 8 - Right of employed women to protection

Paragraph 2 - Illegality of dismissal during maternity leave

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

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

In its previous conclusion (Conclusions XIX-4, 2011), the Committee deferred its conclusion pending receipt of information on whether there was a ceiling on the amount of compensation that can be awarded for unlawful dismissal. If so, it asked whether this upper limit covers compensation for both pecuniary and non-pecuniary damage or whether unlimited compensation for non-pecuniary damage can also be sought by the victim through other legal avenues (e.g. anti-discrimination legislation).

Prohibition on dismissal

The Committee previously found the situation to be in conformity on this point (Conclusions XIX-4, 2011). Therefore there was no examination of the situation in 2023 and the Committee reiterates its previous conclusion of conformity.

Compensation for unlawful dismissal

The Committee previously asked whether there was a ceiling on the amount of compensation that can be awarded in the event of an unlawful dismissal. If so, it asked whether this upper limit covers compensation for both pecuniary and non-pecuniary damage or whether unlimited compensation for non-pecuniary damage could also be sought by the victim through other legal avenues (e.g. anti-discrimination legislation) (Conclusions XIX-4, 2011).

No information is provided on this issue. Due to the failure to provide the requested information the Committee concludes that the situation in Croatia is not conformity with Article 8§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Covid-19

The Committee asked whether the Covid- 19 crisis had had an impact on the possibility of dismissing employees who are pregnant or on maternity leave; it also asked whether there have been any exceptions to the ban on dismissal.

The report states that the Covid-19 crisis had no impact on the possibility to dismiss employees who were pregnant or on maternity leave.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Croatia is not in conformity with Article 8§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Information missing:

- Whether there are ceilings on the amount of compensation that can be awarded in cases of unlawful dismissal on grounds of maternity.

Article 8 - Right of employed women to protection

Paragraph 3 - Time off for nursing mothers

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

The Committee recalls that no questions were asked for Article 8§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group Children, families and migrants”).

In its previous conclusion, the Committee concluded that the situation was not in conformity with Article 8§3 of the Charter on the grounds that breastfeeding breaks were not paid as normal working hours and that the amount of the benefits paid in lieu may result in loss of salary. (Conclusions XIX-4, 2011). The assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of non-conformity.

The report provides no information on the issue. Therefore the Committee reiterates its previous conclusion of non conformity.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 8§3 of the 1961 Charter on the ground that breastfeeding breaks are not paid as normal working hours and that the amount of the benefits paid in lieu may result in loss of salary.

Article 8 - Right of employed women to protection

Paragraph 4 - Regulation of night work and prohibition of dangerous, unhealthy or arduous types of work

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

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

In its previous conclusion, the Committee concluded that the situation was in conformity with Article 8§4 of the 1961 Charter pending receipt of the information requested (Conclusions 2011). The assessment of the Committee will therefore concern the information provided by the Government in response to the information previously requested and the targeted question.

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

The Committee previously requested confirmation that the regulations governing the night work of women in the private sector applied also to women in the public sector (Conclusions 2011). It also requested further information on the compensation levels awarded to pregnant or breastfeeding women who cannot be transferred to day time work and who must take leave.

The report provides no information as to whether the regulations governing the night work of women in the private sector apply also to women in the public sector.

The report confirms that women have the right to return to their previous post at the end of the protected period. But it provides no information on the amount of compensation paid to women who are obliged to take leave due to the lack of suitable alternative employment.

Due to the failure to provide the requested information on whether the regulations governing the night work of women in the private sector apply also to women in the public sector or on the amount of compensation paid to women who are obliged to take leave due to the lack of suitable alternative employment, the Committee concludes that the situation in Croatia is not in conformity with Article 8§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the Charter.

Conclusion

Due to the failure to provide the information listed below the Committee concludes that the situation in Croatia is not in conformity with Article 8§4 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter;

Information missing:

- whether where transfer to daytime work is not possible pregnant women, women who have recently given birth or are breastfeeding are obliged to take leave due to the risks posed by night work are entitled to receive 100% of their previous salary.
- whether the regulations governing the night work of women in the private sector also apply to women in the public sector.

Article 16 - Right of the family to social, legal and economic protection

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

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

In its previous conclusions (Conclusions XIX-4 (2011) and XVIII-1 (2006)), the Committee found that the situation in Croatia was not in conformity with Article 16 of the 1961 Charter on the ground that equal treatment of nationals of other States Parties regarding the payment of child benefit was not ensured due to excessive length of residence requirement.

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

Legal protection of families

Rights and obligations, dispute settlement

- **Settlement of disputes**

In its previous conclusion (Conclusions XIX-4 (2011)), the Committee asked for information about the legal means of settling disputes between spouses.

Due to the failure to provide requested information, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

- **Mediation services**

In its previous conclusion, the Committee asked for information on the legislative framework of family mediation, the range of matters covered by this mediation and the relevant figures showing its effectiveness.

Due to the failure to provide requested information, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

Domestic violence against women

The Committee notes firstly that Croatia has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which entered into force in Croatia in October 2018.

Among the targeted questions that it raised, the Committee asked for updated information on measures taken to reduce all forms of domestic violence against women, including information on the incidence and conviction rates.

In reply, the report sets out some of the legislative and practical measures taken to improve the legal and institutional framework for the protection of women against domestic violence.

The report states that the Criminal Code Amendment Act, which came into force on 1 January 2020, has tightened the legal policy on punishment for various criminal offenses, in particular those committed against a close relative (family members, former or current spouses, extramarital partners, formal or informal partners, persons who have a child together, and persons living in a shared household). The amendment restricted the possibility of imposing

alternative sentences (community service and suspended sentences) for offences committed against a close relative.

The Committee also notes that a consent-based definition of rape was introduced into the Criminal Code (Articles 152 and 153). The definition of 'close person' was expanded in 2021 to include a current or former partner in an intimate relationship (Article 87). It also results in enhanced criminal protection, allowing for *ex officio* prosecution or a heavier prison sentence when an offense is committed against a close relative (e.g., in cases of bodily injury, serious bodily injury, threats, etc.). The procedural presumption regarding the prosecution of the criminal offense of sexual harassment was redefined to ensure that the criminal offense of sexual harassment is prosecuted *ex officio* for all categories of victims. Furthermore, image-based abuse is also criminalised.

The Committee also notes that the Act on Protection Against Domestic violence entered into force 1 January 2018 and was amended in 2020 and 2021. It establishes minimum standards on the rights, support, and protection of victims of such crimes. The Committee notes that the definition of domestic violence encompasses various forms such as physical violence, corporal punishment or other degrading treatment inflicted on children, psychological violence resulting in a violation of dignity or anxiety, sexual harassment, and economic violence. The 2021 amendments expanded this definition to include intimate relationships between partners who do not share the same home or children born of their relationship.

The Committee notes that domestic violence is criminalised as both a misdemeanour and an offence. The 2020 amendments of the Act on Protection against Domestic Violence establish a clear distinction between violent behaviours within the family, differentiating those falling under tortious liability from those constituting a criminal offense. The statutory penalties for domestic violence offences, whether fines or imprisonment, have been strengthened.

The report recalls that, since 1999, the police have been working on ways to improve prevention-repression mechanisms and operational, tactical approaches to combat domestic violence and related issues. The police submit reports (criminal charges, indictments) to judicial bodies (State Attorneys' Offices, Municipal Court Misdemeanour Departments), implement and supervise the enforcement of specific court decisions, monitor and analyse data on criminal offences committed in the context of domestic violence. However, the report does not provide information on the conviction rate.

The Committee notes a decrease in the number of victims and perpetrators of domestic violence offences (from 11,270 and 10,272 respectively in 2018 to 9,564 and 8,368 respectively in 2021). With regard to the number of fatalities of women victims of domestic violence, the Committee observes a steady increase, from 8 in 2018 to 19 in 2020 and 14 in 2021.

The Committee takes note of various preventive campaigns and events organised by the Ministry of Internal Affairs in collaboration with relevant police administrations and other pertinent bodies, aimed at averting all forms of domestic violence against women and raising awareness of gender equality issues.

The report indicates the legislative framework for protection against domestic violence is regulated by the Act on Housing Care in Assisted Areas (No. 106/18 and 98/19), which sets out the provision of housing for victims of domestic violence (Chapter XI "Victims of Domestic Violence", Article 45). Accommodation for recognised victims of domestic violence is temporary and lasts for a maximum of two years from the date when the beneficiary first starts using the accommodation unit. According to the report, 47 decisions were received (11 in 2019, 12 in 2020 and 24 in 2022) regarding the placement of victims of domestic violence.

Social and economic protection of families

Childcare facilities

In its previous conclusion (Conclusions XIX-4 (2011)), the Committee asked for information about the financial participation by parents, the availability of financial assistance, and the measures planned to monitor the quality of childcare services.

Due to the failure to provide requested information, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

Family benefits

Equal access to family benefits

In its previous conclusions (Conclusions XIX-4 (2011) and XVIII-1 (2006)), the Committee found that the situation was not in conformity with Article 16 of the 1961 Charter on the ground that equal treatment of nationals of other States Parties regarding the payment of child benefit was not ensured due to the excessive length of residence required.

In a targeted question, the Committee asked whether a length of residence requirement was imposed on nationals of other States Parties lawfully resident in the country for eligibility to family benefits.

The report indicates that according to the Child Allowance Act, the applicant to child/family allowance must have Croatian citizenship or the status of a foreign national with an approved permanent residence permit and must have resided in Croatia for at least three years prior to submitting the application.

The Committee observes that the situation examined previously has not changed and reiterates its previous conclusion of non-conformity with Article 16 of the 1961 Charter on this issue.

Level of family benefits

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

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

The Committee notes from Eurostat data (published on 17 March 2023) and from the report that the monthly median equivalised income stood at €672 in 2021.

The Committee observes that the report does not provide comprehensive/clear data on the amounts paid out in family benefits.

According to MISSOC, the right to child allowances in Croatia is granted to all recipients, subject to an income test, except those whose children suffer from a severe health problem. The allowance varies according to the net monthly income per family member. According to MISSOC, for monthly incomes up to €72, the allowance was €40; between €72 and €149, the allowance was €33; and from €149 to €309, the allowance was €27 in 2022. In the case of a single-parent family, and depending on the three income groups, the allowance paid is increased by 15% and by 25% in the case of a double orphan or a child with health impairment. The allowance for children with more serious health impairment amounted to €110,

irrespective of family income. For beneficiaries of a child allowance, the additional supplement for the 3rd child amounts to €66, and for the 4th child (and all the following children) – €133. People outside these income brackets do not receive any benefits.

The Committee notes that the child benefit amounts provided in the MISSOC database for 2022 by income category do not differ from the amounts examined by the Committee in its previous conclusion (Conclusions XIX-4 (2011)). It notes that in 2021, the minimum child benefit was equivalent to about 4% of the median equivalised income (for families earning between €149 and €309). Moreover, the Committee understands that no child benefit is paid to persons whose income exceeds €309. In this respect, the Committee refers to the Eurostat data on the minimum wage in Croatia, which was about € 506 in 2019 and €565 in 2021 and observes that a considerable share of families with just one child would not receive any child benefit if the monthly net income per family member exceeds €309.

In the light of the information available, the Committee considers that the situation in Croatia is not in conformity with Article 16 on the ground that family benefits do not constitute a sufficient income supplement for a significant number of families.

Measures in favour of vulnerable families

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

In response, the report indicates that more than half of the Roma population in Croatia (53.7%) receives a guaranteed minimum benefit, while 43.3% can claim a heating allowance, and 22.1% benefit from a housing allowance.

The Committee observes that the report only partially responds to its requests for information and considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

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

The report explains the impact of the pandemic on children but provides no information on temporary financial measures for vulnerable families.

Housing for families

In its previous conclusion (Conclusions XIX-4 (2011)), the Committee asked for information on the legal protection for persons threatened with eviction, in particular on the obligation to consult the parties concerned in order to find alternatives to eviction; an obligation to set a reasonable period of notice before eviction; access to legal remedies; access to legal aid; and compensation in the event of illegal eviction.

Due to the failure to provide requested information, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

In a targeted question, the Committee asked States Parties which have not accepted Article 31 of the Charter to provide updated information on the availability of adequate and affordable housing for families.

The report indicates that since the beginning of the implementation of the Socially-Promoted Housing Programme, a total of 8,356 apartments in 260 buildings have been constructed.

Due to the failure to provide the requested information on the availability of adequate affordable housing for families, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

Participation of associations representing families

In its previous conclusion (Conclusions XIX-4 (2011)), the Committee asked for information on the participation of associations representing families in the development of family policies.

Due to the failure to provide requested information, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter on the grounds that :

- equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured due to the excessive length of residence requirement;
- family benefits do not constitute a sufficient income supplement for a significant number of families.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Croatia is not in conformity with Article 16 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of its reporting obligations under Article 21 of the 1961 Charter.

Information missing:

- the legal means of settling disputes between spouses;
- the legislative framework for family mediation, the range of matters covered by this mediation and the relevant figures to show its effectiveness;
- the financial participation of parents, the availability of financial assistance, and the measures planned to monitor the quality of childcare services;
- measures taken to ensure that vulnerable families could meet their energy needs;
- the legal protection for persons threatened with eviction (obligation to consult the parties concerned in order to find alternatives to eviction; obligation to fix a reasonable period of notice before eviction; access to legal remedies; access to legal aid; and compensation in the event of illegal eviction);
- the availability of adequate and affordable housing for families.
- the participation of associations representing families in the development of family policies.

Article 17 - Right of mothers and children to social and economic protection

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17 of the 1961 Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions falling within the thematic group “Children, families and migrants”).

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

In its previous conclusion the Committee concluded that the situation in Croatia was not in conformity with Article 17 of the 1961 Charter on the ground that young imprisoned offenders were not separated from adults in all circumstances (Conclusions XIX-4). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity, the targeted questions and the general questions.

The legal status of the child

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

The report states that Croatian citizenship is held by over 98% of the Roma population. The majority of Roma women give birth in hospitals; therefore, births are registered. It is possible to report the birth of the child after the legal deadline has passed, but in that case, a decision from the competent administrative body responsible for registration is required.

Due to the failure to provide requested information on measures taken to reduce statelessness, the Committee concludes that the situation in Croatia is not in conformity with Article 17 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Child poverty

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

The report states that since 2019, the annual programme to provide housing and improve living conditions for the Roma has been implemented. Moreover, in 2020, 30 residential units were constructed and handed over to 30 families.

The report further states that to enhance the social inclusion of the minority groups, the police implement a preventive project entitled “I Have a Choice”. The “Start the Wheel of Education” campaign is aimed at raising awareness among the general and professional public about the specific position of Roma children, the importance of early childhood care and the completion of secondary and higher education. The report mentions other campaigns and activities aimed at the inclusion of vulnerable groups.

The report states that children’s participation plays a significant role in various activities involving them in social processes and enabling them to express their opinions. The Foster Care Act provides that the social welfare centre may organise a Council of Fostered Children and Youth for beneficiaries under its local jurisdiction, with the objective of promoting their interests, the right to family life and integration into the community.

The Committee notes from EUROSTAT that in 2021, 18.6% of children in Croatia were at risk of poverty or social exclusion, while in 2018 the percentage was 22.2%. The Committee notes that this percentage is lower than the EU average (24.4% in 2021).

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17 of the Charter. Consistent with its approach in relation to the conceptualisation and measurement of poverty adopted by the Committee in terms of Article 30, the Committee’s consideration of child poverty for the purposes of Article 17 reflects an understanding of both income and multi-dimensional understandings of poverty (Statement of interpretation, 2013, Article 30). This understanding is reflected in the indicators and elements the Committee takes into account when assessing State Party compliance with Article 17. For the States that have not accepted Article 17, child poverty will be addressed under Article 30.

The EUROSTAT data and the EU-27 rate of children at risk of poverty or social exclusion is used as key point of reference and indicator of state compliance with Charter rights by the Committee. The Committee will also have regard to disimprovement in terms of the rate of children at risk of poverty or social exclusion in a State Party. Furthermore, the Committee also takes into account non-monetary measures adopted at reducing child poverty and social exclusion such as ensuring access to quality and affordable services in the areas of health, education and housing. When assessing State conformity with Article 17, the Committee will also take into account the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

Right to assistance

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

The report states that the programme “PoMoZi Da – Promoting Children’s Mental Health” aims to build the capacity of education professionals in the field of the mental health of children and adolescents. Moreover, screening for mental health risks among pupils was initiated as a pilot project at the end of 2019.

The report further states that, by the Government decision of 4 January 2021, the Central State Office for Reconstruction and Housing Care undertakes activities to provide temporary accommodation for individuals who have lost their homes in the areas affected by the earthquake and are unable to secure suitable accommodation independently. Until 31 December 2021, 96 families (275 individuals) were granted the right to temporary accommodation in state-owned apartments. Moreover, 5,206 individuals were accommodated in 2,477 mobile housing units.

The Committee notes from other sources (Human Rights Watch, Concluding observations of the United Nations Committee on the Rights of the Child on the combined fifth and sixth

periodic reports of Croatia, 22 June 2022) that collective expulsion of children in an irregular migration situation is a significant issue and that Croatia was urged by the United Nations Committee on the Rights of the Child to end this practice. The Committee concludes that the situation in Croatia is not in conformity with Article 17 of the 1961 Charter on the ground that immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance.

Rights of children in public care

In its previous conclusion, the Committee asked about the maximum number of children in a single institution. It also asked what were the criteria for the restriction of custody or parental rights and what was the extent of such restrictions. It also asked what were the procedural safeguards to ensure that children were removed from their families only in exceptional circumstances. It further asked whether the national law provided for a possibility to lodge an appeal against a decision to restrict parental rights, to take a child into public care or to restrict the right of access of the child's closest family (Conclusions XIX-4).

The Committee notes that, in accordance with Family Law, a child can only be separated from the family when it is not possible to protect their rights and well-being by any other less restrictive measure. A child can be separated from the family to protect their life, health and development. Parental rights can be restricted when one parent abuses or seriously violates parental responsibilities and the law determines the specific circumstances when it can be done. Parental rights can be restored by a court decision in a non-litigious procedure.

Due to the failure to provide requested information on the maximum number of children in a single institution, the Committee concludes that the situation in Croatia is not in conformity with Article 17 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Children in conflict with the law

In its previous conclusion, the Committee concluded that the situation in Croatia was not in conformity with Article 17 of the 1961 Charter on the ground that young imprisoned offenders were not separated from adults in all circumstances. The Committee also asked about the maximum permissible duration of the entire period of pre-trial detention (Conclusions XIX-4).

The report provides none of the information requested.

The Committee notes that referral to a correctional institution is carried out in the Turopolje and Požega Correctional Institutions. Juveniles serve prison sentences in closed and semi-open conditions in special wards of Požega Prison, and in open conditions in Valtura Prison. In accordance with the Law on Juvenile Courts, convicted juveniles serve sentences in specialised penitentiaries where they can stay until they reach the age of 23. Pre-trial detention is a measure of last resort; it may last one month and may be extended by one month on two occasions.

The Committee notes the specific situation in Croatia where minors older than 16 and young adults under the age of 23 can be detained in the same facility. The Committee considers that no information is provided on whether children under the age of 18 are separated from young persons aged between 18 and 23. Due to the failure to provide requested information on whether children under the age of 18 and adults are separated in prisons, the Committee concludes that the situation in Croatia is not in conformity with Article 17 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

Conclusion

The Committee concludes that the situation in Croatia is not in conformity with Article 17 of the 1961 Charter on the ground that immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Croatia is not in conformity with Article 17 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by Croatia of their reporting obligations under Article 21 of the 1961 Charter.

List of questions/Information missing:

- on measures taken to reduce statelessness;
- on the maximum number of children in a single care institution;
- whether children under the age of 18 are separated from young persons aged between 18 and 23 in the facilities where juveniles serve their sentences.