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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions XXII-4 (2023)

UNITED KINGDOM

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 1961 European Social Charter was ratified by the United Kingdom on 11 July 1962. The deadline for submitting the 42nd report was 31 December 2022, and the United Kingdom submitted it on 11 April 2023.

The Committee recalls that the United Kingdom was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2019).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If, in its previous conclusion (Conclusions 2019), the Committee concluded that the situation was in conformity, there was no examination in 2023.

The comments of the University of Essex and the Scottish Human Rights Commission (SHRC) on the 42nd report were registered on 27 July and 3 August 2023 respectively. The Government's response to these comments was registered on 18 October 2023.

The United Kingdom has not accepted the following provisions from the above-mentioned group: 7§1, 7§4, 7§7, 7§8, 8§2, 8§4.

The conclusions relating to the United Kingdom concern 19 situations and are as follows:

- 10 conclusions of conformity: Articles 7§2, 7§6, 7§9, 19§§1-5, 19§7, 19§9.
- 9 conclusions of non-conformity: 7§3, 7§5, 7§10, 8§1, 16, 17, 19§6, 19§8, 19§10.

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

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 the United Kingdom.

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

In its previous conclusion (Conclusions 2019) the Committee found that the situation was in conformity with the Charter and asked the next report to provide updated information on the number and nature of violations detected as well as sanctions imposed for breach of the regulations related to the employment of young persons in dangerous or unhealthy occupations in the United Kingdom.

The Committee notes from the report that during the reference period the Health and Safety Executive (HSE) issued 12 prohibition notices under the Prevention of Accidents to Children in Agriculture Regulations 1998, requiring agricultural businesses to immediately stop their practice to prevent the risk of harm to children and young people. It is a criminal offence to fail to comply with a prohibition notice.

Under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, employers must report certain serious workplace accidents, occupational diseases and specified dangerous occurrences. In Great Britain, 21 such incidents related to the employment of young persons were investigated in the reference period. This action resulted in 8 prohibition notices, 4 improvement notices and 8 prosecutions.

Conclusion

The Committee concludes that the situation in the United Kingdom 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 the United Kingdom.

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

In its previous conclusion (Conclusions 2019) the Committee found that the situation in the United Kingdom was not in conformity with Article 7§3 of the 1961 Charter on the ground that the daily and weekly duration of light work permitted to children who are still subject to compulsory education during school holidays was excessive and therefore such work could not be qualified as being light.

The Committee has previously noted that according to Section 18(1) of the Children and Young Persons Act 1933, during school term children can only work a maximum of 12 hours per week. This includes:

- a maximum of 2 hours on school days and Sundays;
- a maximum of 5 hours on Saturdays for 13 to 14-year-olds, or 8 hours for 15 to 16-year-olds.

During school holidays the 15 to 16-year-olds can only work a maximum of 35 hours per week, as follows:

- a maximum of 8 hours on weekdays and Saturdays;
- a maximum of 2 hours on Sunday.

The Committee referred to its Statement of Interpretation of 2015, in which it stated that work considered to be “light” in nature ceases to be so if it is performed for an excessive duration. States are therefore required to set out the conditions for the performance of “light work” and the maximum permitted duration of such work. The Committee considers that children under the age of 15 and those who are subject to compulsory schooling should not perform light work during school holidays for more than 6 hours per day and 30 hours per week in order to avoid any risks that the performance of such work might have for their health, moral welfare, development or education (General Introduction, Conclusions 2015).

Therefore, the Committee has previously considered that the situation was not in conformity with the Charter as the working hours allowed for children aged 15-16, still subject to compulsory education was excessive.

The Committee notes from the report that situation has not changed and therefore, the Committee reiterates its previous finding of non-conformity.

The Committee further notes from the report that all labour rights and protections are strictly enforced and monitored through a number of regulatory bodies and through Local Authorities. According to the report, this tailored approach allows a targeted and specialist approach to enforcement which reflects the regional legislation and local circumstances.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 7§3 of the 1961 Charter on the ground that the daily and weekly duration of light work permitted to children who are still subject to compulsory education during school holidays is excessive and may deprive them of the full benefit of education.

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 the United Kingdom. It also takes notes of comments submitted by the Scottish Human Rights Commission and of the Government's reply.

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 the United Kingdom was not in conformity with Article 7§5 of the 1961 Charter on the ground that the minimum wage of young workers was not fair (Conclusions XXI-4 (2019)).

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.

In its previous conclusion (Conclusions XXI-4) the Committee noted that the difference between adults' minimum wage and that of young workers aged 16-18 exceeded 20%. In reply to the previous finding of non-conformity, the report states that in the UK, the hourly rate for the national minimum wage (NMW) depends on age and whether the young person is an apprentice and amounts to 4,05£ to 4,62£ per hour. In Scotland, the Scottish Government is using all the levers it has at its disposal to promote fair work practices across Scotland including payment of the real Living Wage. In the Isle of Man, the minimum wage for young workers over compulsory school age (normally 16) but under 18 is 6,80£, while the minimum wage for workers aged over 18 is 9,50£.

The Committee recalls that the "fair" or "appropriate" character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged 18 or above) (Conclusions XI-1(1991), United Kingdom).

The Committee notes that in the reference period, the adult minimum wage in the UK and the Isle of Man was 9,50£ per hour. Accordingly, it observes that the difference between adults' minimum wage and that of young workers aged 16-18 continues to exceed 20%.

As regards the adult minimum wage, the Committee has concluded that the situation in the United Kingdom was not in conformity with Article 4§1 of the 1961 Charter on the ground that the minimum wage did not ensure a decent standard of living (Conclusions XXII-3 (2021)). The Committee recalls that 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 the above-mentioned percentage differentials is not considered fair (Conclusions XII-2 (1992), Malta).

On this basis, the Committee considers that the situation is not in conformity with Article 7§5 of the 1961 Charter on the ground that the minimum wage of young workers aged 16 and 17 is not fair.

With regard to apprenticeships, the Committee has assessed the situation in its previous conclusion (Conclusions XXI-4 (2019)) and found it to be in conformity with the Charter.

Fair remuneration in atypical jobs

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

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

The report states that in the Isle of Man the minimum wage for those aged 16 to 18 applies to all workers, including those in atypical employment. Part-time workers are protected through regulations which prevent less favourable treatment for those workers. The provision for those in the gig economy or with zero hours contracts is currently being reviewed. The report does not provide information on the relevant measures taken.

Due to the failure to provide the information, the Committee concludes that the situation in the United Kingdom is not in conformity with Article 7§5 of the 1961 Charter.

Enforcement

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

The report states that in the UK, employers must record and report young people's earnings as part of their payroll, including deducting income tax and national insurance contributions. This is an accounting requirement for all employers in line with existing frameworks for adults. HM Revenue and Customs (HMRC) officers have the right to carry out checks at any time and ask to see payment records. They can also investigate employers if a worker complains to them. If HMRC finds that an employer has not been paying the correct rates, any arrears have to be paid back immediately. There will also be a fine and offenders might be named by the government. Employers who do not pay young workers the national minimum wage face a maximum penalty of £20,000 per worker. The revised penalty is calculated as 200% of the total underpayment for all of the workers specified relating to pay reference periods that commence on or after 1 April 2016. The penalty is reduced by 50% if all of the unpaid wages and 50% of the penalty are paid in full within 14 days.

In Scotland, if a revised UNCRC (Incorporation) (Scotland) Bill is passed and receives Royal Assent, this would require that we take legislative, administrative, social and educational measures to ensure the implementation of Article 32 of the UNCRC (which requires that States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development).

In the Isle of Man, the Government's Employment Inspectors enforce the requirements for employers to pay the minimum wage. The Isle of Man's Minimum Wage Act 2001 provides that a worker must not suffer detriment as a result of asserting their rights to a minimum wage. If detriment is suffered a complaint can be made to the Isle of Man Employment Tribunal.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 7§5 of the 1961 Charter on the ground that the minimum wage of young workers aged 16 and 17 is not fair.

Due to the failure to provide the information listed below the Committee concludes that the situation in the United Kingdom is not in conformity with Article 7§5 of the 1961 Charter. The Committee considers that this failure to provide information amounts to a breach by the United Kingdom of their reporting obligations under Article 21 of the 1961 Charter.

Missing information:

- on measures taken to ensure that fair remuneration is guaranteed to young workers in the following context - in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers), in the gig or platform economy and on zero hours contracts.

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 the United Kingdom.

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.

As the previous conclusion found the situation in the United Kingdom to be in conformity with the 1961 Charter, there was no examination of the situation in 2023. Therefore, the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 7§6 of the 1961 Charter.

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 the United Kingdom.

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 found that the situation in the United Kingdom was in conformity with Article 7§9 of the 1961 Charter (Conclusions XXI-4 (2019)). Therefore, the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 7§9 of the 1961 Charter.

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 the United Kingdom and in the comments by the Scottish Human Rights Commission.

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”).

In its previous conclusion the Committee concluded that the situation in the United Kingdom was not in conformity with Article 7§10 of the 1961 Charter on the ground that child victims of prostitution in England and Wales could be prosecuted (Conclusions XXI-4). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and the targeted questions.

Protection against sexual exploitation

The Committee has previously found that the situation in the United Kingdom was not in conformity with Article 7§10 of the 1961 Charter on the ground that child victims of prostitution in England and Wales could be prosecuted. It requested information on any cases where a child had been prosecuted for loitering or soliciting for the purpose of prostitution. It also asked for information on measures taken to address the sexual exploitation of children, such as the National Action Plan to Tackle Child Sexual Exploitation in Scotland and in Northern Ireland, the response to the Marshal Inquiry into the sexual exploitation of children (Conclusions XXI-4).

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

The report states that in the UK, the legislation and processes in force ensure that children who experience sexual exploitation, irrespective of whether this is in the form of child prostitution, child pornography or neither of these forms of exploitation, are always viewed and supported as victims. Adult offenders are prosecuted for all forms of child sexual abuse and exploitation through legislative provisions. There have been no prosecutions of children in Northern Ireland. The National Action Plan was published in 2019 and sets out 10 objectives to prevent and respond to child sexual abuse. Following the Marshal Inquiry, a new risk assessment was created and introduced, a Persons of Concern process is designed to make front line colleagues aware of those seeking to harm vulnerable children.

The Committee notes from other sources (GRETA’s report, Third evaluation round GRETA (2021)12, 20 October 2021) that GRETA was informed of a number of cases where child victims of trafficking were criminalised. A UNICEF report found that there is a very low level of awareness among prosecutors, police, and defence solicitors of the non-punishment provision for children, as well as little monitoring of the use of the presumption against prosecution or the statutory defence across the UK. The Committee therefore reiterates that the situation in the United Kingdom is not in conformity with Article 7§10 of the 1961 Charter on the ground that child victims of sexual exploitation can be criminally prosecuted.

In reply to the targeted question, the report states that the Government is committed to continued funding of the Tackling Child Exploitation Support Programme to further improve local authorities’ strategic responses to harm outside the home, including child sexual and criminal exploitation.

The report states that in Scotland, the Scottish Government published National Guidance for Child Protection in Scotland in September 2021, which includes advice on identifying and supporting victims of child trafficking and exploitation and reflects learning from recent cases. In 2021-2022, the Scottish Government provided a funding uplift to local authorities to help accommodate and support vulnerable unaccompanied children arriving in Scotland.

The report states that in Wales, the Welsh Government is a member of the steering group for the Independent Child Trafficking Guardianship service, which provides specialist support to trafficked children.

The report states that in Northern Ireland, there are five Child Abuse Investigation Units.

The report states that on the Isle of Man, the Home Office is committed to establishing and developing a strong governance framework for domestic abuse consisting of legislation, statutory guidance and an overarching strategy. In addition, the Sexual Offences and Obscene Publications Act 2021 introduces new offences, such as abuse by someone who is in a position of trust, and updates offences relating to the sexual abuse of children in a family context.

In its comments, the Scottish Human Rights Commission states that data on sexual crimes committed against children is not systematically collected or released as official data. The Scottish Government is committed to piloting a “Bairns’ Hoose” based on the Barnahus model which would bring together child protection, justice and health support and services to help child victims and witnesses of abuse and harm.

Protection against the misuse of information technologies

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

The report states that the Home Office is the primary donor to the Global Partnership and the Fund to End Violence Against Children, which support programmes and research to tackle the threat of online child sex abuse and exploitation around the world. The UK ratified the Lanzarote Convention in June 2018. In Scotland, awareness campaigns have been organised. In Wales, the Wales Safeguarding Procedures provide accessible, evidence-based guidance to set out the essential roles and responsibilities of practitioners in safeguarding children and adults at risk of abuse, neglect and harm. In Northern Ireland, the Child Internet Protection Team receives referrals relating to suspected child sexual abuse online. On the Isle of Man, Safer Schools App is available.

In its comments, the Scottish Human Rights Commission states that, referrals to Police Scotland relating to offences targeting children online increased by 511 % between 2015 and 2021.

Protection from other forms of exploitation

The Committee has previously asked for updated information on measures taken to address child trafficking, the issue of child labour, the measures taken to address the issue of children involved in gang activity and to ensure that children involved in county lines (drug dealing) were treated as victims of exploitation (Conclusions XXI-4).

The report states that the UK launched the Principles to Combat Human Trafficking in Supply Chains, jointly with the US, Canada, Australia and New Zealand. The UK is the first country to require businesses to report on the steps taken to tackle modern slavery in their operations and global supply chains. Independent Child Trafficking Guardians advocate on behalf of the child to ensure that his or her best interests are reflected in the decision-making processes undertaken by the public authorities involved in the child's care.

The report also states that in Scotland, the Scottish Guardianship Service helps trafficked children in their recovery process. In October 2020, a research paper on Child Trafficking in Scotland was published. In Wales, there is a guide on Safeguarding Children who may be Trafficked. On the Isle of Man, human trafficking is a criminal offence.

The report further states that the UK Government spends 33 million pounds a year on State enforcement of employment rights. The Health and Safety Executive works in partnership with other agencies to tackle child labour.

The report also states that in November 2019, the "county lines" programme was launched to boost the police and law enforcement response.

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 schools, children's social care services, youth services, victim support and early help services remained open throughout the periods of public health restrictions. In Scotland, the data collected since 2020 continue to be key to understanding the impact of the pandemic on the country's vulnerable children and young people. In Wales, guidance was provided on reporting suspected abuse, harm or neglect during the first lockdown period. In Northern Ireland, crime recording did go down during Covid-19. On the Isle of Man, the Department of Education, Sport and Culture participates in meetings which identify and work with vulnerable young people.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 7§10 of the 1961 Charter on the ground that child victims of sexual exploitation can be criminally prosecuted.

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 the United Kingdom, as well as the comments submitted by the Scottish Human Rights Commission.

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

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee considered that the situation in the United Kingdom was not in conformity with Article 8§1 of the 1961 Charter on the grounds that the standard weekly rate of statutory maternity pay after six weeks and the maximum weekly rate of maternity allowance were inadequate.

Right to maternity leave

The Committee previously asked what legal safeguards existed to prevent employers from pressuring women to shorten their maternity leave. It asked whether there was an agreement with the social partners on the issue of postnatal leave that protects women's free choice and whether collective agreements offered additional protection. The Committee considered that if the necessary information was not provided, there would be nothing to establish that the situation in the United Kingdom complied with Article 8§1 of the 1961 Charter in this respect (Conclusions XXI-4).

The report provides detailed information on the different types of maternity leave available. It describes three types of maternity leave: i. compulsory maternity leave: two weeks immediately after giving birth, which all employees entitled to maternity leave must take; ii. ordinary maternity leave: the first 26 weeks of leave, including the period of compulsory maternity leave; iii. additional maternity leave: a further 26 weeks of leave. The report states that it is unlawful pregnancy and maternity discrimination to treat a woman unfavourably because she is on any of these types of maternity leave (see, for example, the Equality Act 2010 or the Employment Code). In addition, the Government encourages women to seek help and advice from social partners, such as independent employment advocacy services, and trade unions, if they find themselves in such a situation, as this is a legal safeguard. Employers in the UK may also have agreements with employee representatives (trade unions or staff associations) that allow them to negotiate conditions such as pay or working hours. The report further explains that the Government actively engages with the social partners on any policy changes affecting employment rights and has an established collective bargaining mechanism to ensure that workers' rights and rights set out on maternity conditions are respected, including through various Government-funded bodies. The Committee considers, on the basis of the information provided, that there are sufficient safeguards to ensure that women are not subject to undue pressure from employers and that they can benefit from their maternity leave, which can be up to 39 weeks, that the situation in the United Kingdom is in conformity with the 1961 Charter.

Right to maternity benefits

The Committee previously concluded that the situation in the United Kingdom was not in conformity with Article 8§1 of the 1961 Charter on the grounds that the standard weekly rate of statutory maternity pay after six weeks and the maximum weekly rate of maternity allowance were inadequate (Conclusions XXI-4).

With regard to the question of whether the minimum rate of maternity benefit is at least equal to the poverty line, defined as 50% of median equivalised income, the report states that, as already mentioned in previous reports, the approach taken is that the standard rate of maternity benefit is supplemented by other targeted financial support, which is the best way of directing support towards working pregnant women. Statutory Maternity Pay (SMP) and Maternity Allowance (MA) are paid for up to 39 weeks. The rates of SMP and MA are reviewed annually. The standard weekly rate of SMP and MA was £156.66 (€183) in April 2022/23 (although outside the reference period). Women on SMP and MA can also apply for Universal Credit if required. This offers personalised support based on household circumstances and includes a number of support options including help with children, housing and childcare costs.

The Committee recalls that under Article 8§1, the level of income replacement benefits must be set so as to be reasonably proportionate to previous salary (they must be equal to previous salary or close to its value, and must not be less than 70% of previous salary) and must never be less than 50% of median equivalent income (Statement of interpretation of Article 8§1, Conclusions 2015). If the benefit in question is between 40% and 50% of the median equivalised income, other benefits, including social assistance and housing, will be taken into account. On the other hand, if the level of the benefit is less than 40% of the median equivalised income, it is manifestly inadequate and its combination with other benefits cannot bring the situation into line with Article 8§1.

The Committee notes from MISSOC that, in 2019, Statutory Maternity Pay (SMP) was paid for up to 39 weeks at:

- 90% of average weekly earnings (before tax) for the first six weeks;
- £148.68 (€166) per week or 90% of average weekly earnings (whichever is lower) for the next 33 weeks.

Maternity allowance was paid at standard rate £148.68 (€166) per week or 90% of her average weekly earnings if this is less than £148.68 (€166).

According to UK statistics the median equivalised disposable income was £29,600 in 2019 (€34,347). 50% of this amounts to £14,800 (€17,173) or £284 weekly (€329).

The Committee notes that according to this data the rate of SMP paid after six weeks and the rate of maternity allowance fell significantly below 50% of the median equivalised income in 2019 (during the reference period) and was therefore inadequate.

Covid-19

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

According to the report, the earnings calculation was adjusted to ensure women on furlough were not detrimentally affected. Also, new parents who were self-employed and whose activities were adversely affected by Covid-19 were supported.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 8§1 of the 1961 Charter on the ground that the minimum amount of maternity benefit is inadequate.

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 the United Kingdom and in the comments submitted by the University of Essex and the Scottish Human Rights Commission (SHRC). It also takes note of the information contained in the UK Government Response to SHRC Recommendations.

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).

The Committee deferred its previous conclusion pending receipt of the information requested on childcare facilities, family benefits levels, and housing for families (Conclusions XXI-4 (2019)).

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

Legal protection of families

Domestic violence against women

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

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for comprehensive and updated information on all actions and measures taken in the field of domestic violence (concerning prevention, protection, prosecution, integrated policies), on the implementation of legislation/measures and their impact on the prevention and reduction of domestic violence in the United Kingdom.

In addition, 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 incidence and conviction rates.

England and Wales: In response, the report indicates that the Domestic Abuse Act 2021 became law in April 2021. According to the report, the legislation transforms the response to victims in every region in England and Wales and helps bring perpetrators to justice. The Act includes a general-purpose legal definition of domestic abuse, which encompasses a range of abuse beyond physical violence, including emotional, controlling or coercive, and economic abuse. Children are explicitly recognised as victims if they see, hear or otherwise experience the effects of abuse. The Committee takes note of other key measures included in the Act, in particular the creation of a statutory presumption that victims of domestic abuse are eligible for special measures before criminal, civil and family courts (see the report for further details). The Committee notes that a commencement schedule covering the implementation of the provisions in the Act is available on the government website.

The report also indicates that a cross-Government Tackling Violence Against Women and Girls Strategy was published in July 2021 to help ensure that women and girls are safe everywhere (at home, online, at work and on the streets). A complementary cross-Government Tackling Domestic Abuse Plan was published in March 2022 (outside the reference period). The report adds that both documents aim to transform the response of society as a whole response to these crimes through actions to prevent abuse, support victims and prosecute perpetrators, as well as to strengthen systems to combat violence against women and girls.

The Committee also notes that the Welsh Government published its five-year Violence Against Women, Domestic Abuse and Sexual Violence National Strategy on 24 May 2022 (outside the reference period) which was developed collaboratively with a group of key partner organisations including the police, the specialist sector and victim survivors (following prior public consultation).

In addition, the report indicates that all National Health Service staff undertake mandatory safeguarding training which includes a focus on domestic abuse.

The Committee noted the results of the 2021-2022 Crime Survey for England and Wales. It observed in particular that convictions for the offence of controlling or coercive behaviour (Section 76 of the Serious Crime Act 2015) have risen from 235 in 2017 to 434 in 2021.

Scotland: The report indicates that the Domestic Abuse (Scotland) Act 2018 created a specific offence of domestic abuse which covers physical and psychological abuse, including coercive and controlling behaviour. The Act incorporates the fact that children are harmed by domestic abuse by providing for a statutory aggravation in relation to children.

In addition, the revised National Guidance for Child Protection was published in September 2021. It includes detailed advice for all practitioners who work with children and families on identifying and supporting victims of domestic abuse.

The report adds that Scotland's strategy ("Equally Safe") for preventing and eradicating violence against women and girls, including domestic abuse, as updated in 2016, sets out a vision to prevent violence from occurring in the first place, by building the capability and capacity of support services and strengthening the justice response to victims and perpetrators. The Committee takes note of the outcomes shown on the Government website.

Regarding female genital mutilation (FGM), the Committee takes note of the outcomes identified in the third-year progress report on the implementation of the 2017 National Action Plan to Prevent and Eradicate FGM, published on 8 November 2019. The FGM (Protection and Guidance) Bill became law in April 2020 to strengthen the existing legislative framework for the protection of women and girls from FGM. It comprises two main policies: FGM protection orders and statutory guidance.

The Committee observes a slight decrease in recorded incidents of domestic violence, from 65,251 incidents of domestic violence recorded by the police in 2020-2021 (a 4% increase on 2019-2020) to 64,807 in 2021-2022.

In its comments, the Scottish Human Rights Commission confirms that significant progress has been made in legislation and policy to protect women and children from domestic abuse and other forms of gender-based violence during the reporting period. However, it also indicates that there are issues with the availability of appropriate support, including refuges, and a persistent relationship between levels of homelessness and domestic violence. The Committee notes the very detailed information provided in the Scottish Human Rights Commission's comments on violence against women and girls, including domestic abuse, misogyny and hate crime, sexual violence and abuse. The Committee also notes the very detailed response by the Government of the United Kingdom to the comments provided by the Scottish Human Rights Commission on the above issues.

Northern Ireland: The report indicates that the Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021 came into effect on 21st February 2022 (outside the reference period). This Act introduced a new offence of domestic abuse which encompasses non-physical abuse and controlling or coercive behaviour, and provides for a number of statutory aggravating circumstances if such violence is perpetrated against a child. In the field of employment, it also provides additional leave and pay rights for workers and employees who are victims of domestic abuse. Victims and survivors of domestic abuse are entitled to ten days' paid leave for the purposes of dealing with the issues resulting from domestic abuse. There are also provisions to enhance support for victims of domestic abuse who give evidence

in civil / family proceedings, including the use of special measures, such as giving evidence behind a screen, and protection from cross-examination in person by the alleged perpetrator.

The report also indicates that a new Domestic and Sexual Abuse Strategy for Northern Ireland is being prepared.

The Committee also takes note of the training programme for the introduction of the Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021 and its outcomes.

The Committee notes from the report that in 2021-2022, there were 33,186 incidents of domestic violence (compared to 20,959 in 2004-2005), and 21,723 crimes of domestic violence (i.e., 2.25 times more than in 2004-2005). 22.2% of domestic abuse offences have resulted in a charge or summons.

Isle of Man: The report indicates that the Domestic Abuse Act was adopted in 2020 after public consultation undertaken in 2018. The Act addresses the issues of controlling or coercive behaviour, and domestic abuse itself. The Committee takes note of the definitions of “domestic abuse” and other terms used in the Act.

The Committee takes note of the activities/measures set out in the Domestic Abuse Act 2020 Implementation Plan prepared by the Department of Home Affairs and published in 2022. According to the report, this plan is scheduled to be implemented in 2023 (outside the reference period). The Committee observes that before this date, offenders cannot be prosecuted for domestic abuse, but are prosecuted for assault etc. and therefore, figures on incidence and conviction rates are not readily available. However, the report shows the number of domestic incidents on the basis of the Chief Constable’s Annual Reports, which represent a proportion of investigations into several categories of recorded crime, from physical assaults to coercive behaviour to non-physical arguments, as well as some non-criminal incidents (650 in 2019-2020 and 670 in 2021-2022).

Social and economic protection of families

Family counselling services

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for updated information on family counselling services available throughout the United Kingdom.

The Committee takes note of the detailed information given in the report in reply to its question. It notes that, in England, Wales and Scotland, there is a broad range of counselling services available to families. The Committee refers to the report for a full description.

As regards the Isle of Man, the report indicates that a Statutory Board responsible for delivering all health and care services on the Island - Manx Care - runs a Community Wellbeing Service that offers a range of brief interventions but does not specialise in family counselling.

The report does not provide any updated information on family counselling services available in Northern Ireland. The Committee refers to its previous conclusion (Conclusions XX-4 (2015)), in which it noted the existence of counselling services in Northern Ireland.

In its comments, the University of Essex highlights that more support is needed in England to ensure that local authorities are able to provide support in the form of counselling and one-to-one support for parents and children when there is no other possible alternative but to remove the child from the family home.

Childcare facilities

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for information on the childcare facilities available in all UK entities, namely the types of facilities, coverage with respect to the number of children aged 0-6, ratio of staff to children, staff training and qualifications, suitable premises. Meanwhile, it reserved its position on this point.

England: The report indicates that staff to child ratios are set out as part of the Statutory Framework for the Early Years Foundation Stage (EYFS) drawn up by the Secretary of State for Education under the EYFS Order 2007. All pre-school providers must meet EYFS standards. The Committee notes the information on appropriate staff qualifications, the number of qualified staff of different skill levels in pre-schools, the safety and suitability of premises and other details set out in the EYFS Statutory Framework.

The Committee also takes note of several measures introduced to improve access to childcare, to help parents successfully reconcile work and family life, and to support children's development. In terms of coverage of the number of children aged 0-6, the Committee notes that:

- 92% of 3-year-olds and 95% of 4-year-olds received 15 hours of free childcare a week.
- working parents benefited from 30 hours of free childcare a week; the scheme involved more than 340,000 children aged three and four;
- nearly 750,000 disadvantaged 2-year-olds received free childcare for 15 hours a week.

Wales: The report indicates that childcare services are regulated by the Care Inspectorate Wales (CIW). The CIW register records operational information on the number of services in place by type and sub-type. According to the report, there are two types of services: day care centres (usually as part of nursery schools) and childminders (usually individuals who provide care for a small number of children, often in their own homes). On 17 October 2022, there 64,276 children were being looked after in day-care centres and 10,776 by childminders.

The Committee notes from the report that the number of childcare services in Wales has decreased during the reference period.

The Committee takes note of the minimum ratios of staff to children in day care: one adult for every three children under the age of 2; one adult for every four children aged 2; one adult for every eight children aged 3 to 7 and one adult for every ten children aged 8 to 12. It also notes the maximum number of children that a childminder may look after.

The Committee takes note of the national minimum standards for suitable premises and qualification requirements for staff working in registered establishments, which are different for childminders and nursery staff (see the report for further details).

Scotland: The report indicates that the Scottish Government invests significantly in Early Learning and Childcare (ELC) policy. Since August 2021, all local authorities have been funding 1,140 hours a year of high quality ELC for all three- and four-year-olds, and eligible two-year-olds. In September 2021, 97% of eligible three- and four-year-olds were registered for funded ELC.

In its comments, the Scottish Human Rights Commission expresses reservations about the degree of flexibility of the 1140 hours for families who work irregular hours.

The report indicates that families use a wide variety of childcare services and extra-curricular activities to help them before and after the school day and during the holidays. The Committee takes note of the minimum ratios of staff to children in day care: one adult for every three children under 2; one adult for every five children aged 2 to 3; one adult for every eight children aged 3 to 8 (or 1 for every 10 when attendance is less than 4 hours); and one adult for every ten children over 8.

The report indicates that 221,200 children were enrolled in early learning and childcare on 31 December 2021, including 140,420 in nurseries.

The Committee notes the information on the qualifications of childcare workers regulated by the Scottish Social Service Council.

Northern Ireland: The Committee notes from the Children’s Social Care Statistics Bulletin for Northern Ireland 2021-2022, published annually by the Department of Health, that on 31 March 2022, 3,606 individuals/facilities were registered childcare providers with 59,213 places for children aged 12 and under. According to this Bulletin, day care providers for children fall into five main categories: childminders (2,288 childminders with 13,513 places; six child places per childminder); playgroups (403 playgroups providing 13,069 places), day nurseries (323 crèches providing 16,227 places), extra-curricular clubs and other organisations.

The Committee takes note of the minimum standards childcare for children under 12, published by the Department of Health in 2012 and updated in 2018: one adult for every three children under 2; one adult for every four children aged 2 to 3; and one adult for every eight children aged 3 to 12.

Isle of Man: The report indicates that there are 59 registered childminders and 46 day nurseries across the Island, with services ranging from private nurseries to after-school care.

Family benefits

Equal access to family benefits

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.

In its previous conclusions (Conclusions XXI-4 (2019) and XX-4 (2015)), the Committee noted that since 1 July 2014, the persons who have entered the UK and are unemployed need to have lived in the UK for three months before they can claim Child Benefit or Child Tax Credit, although there are exceptions to this rule. Therefore, the Committee asked whether these rules had been changed.

In response, the report indicates that they have not.

The report states that since March 2019, European Economic Area (EEA) nationals and their eligible family members covered by the Withdrawal Agreement, European Union and European Free Trade Association (EFTA) under the European Union (Withdrawal Agreement) Act 2020 are eligible to apply for pre-settled or settled status under the EU Settlement Scheme.

- Settled status (Indefinite Leave to Remain) ensures that EEA nationals’ access to benefits is equivalent to that of a UK national.
- Pre-settled status (Limited Leave to Remain) preserves the rights of EEA nationals before Brexit; they are entitled to benefits if the UK is their place of habitual residence or if they are present in the country.
- EEA nationals coming to the UK after 31 December 2020, who are not covered by the Withdrawal Agreements need to apply and obtain immigration status under the points-based immigration system. They will generally be granted access to family benefits once they have been granted Indefinite Leave to Remain in the UK either after 2, 3 or 5 years of continuous residence depending on the immigration route.

Limited Leave to Remain can also be granted without a No Recourse to Public Funds (NRPF) condition and on certain immigration routes, NRPF conditions can be lifted for those who are destitute or at risk of destitution.

The report indicates that individuals who are subject to immigration control are not entitled to Child Benefit. According to the report, a person subject to immigration control is defined in 115(9) of the Immigration and Asylum Act 1999 (legislation.gov.uk). This includes a person who requires leave to enter or remain in the United Kingdom but does not have it, and a person who has leave to enter or remain in the United Kingdom but is subject to a No Recourse to Public Funds condition (i.e., a NRPF condition). Certain exceptions apply, primarily to refugees, those whose leave to enter or remain in the UK is not subject to any limitation or

those with discretionary or humanitarian leave to enter or remain in the UK. According to the report, individuals covered by a relevant bilateral social security agreement with another country, including the Agreement on the Withdrawal of the UK from the EU may also be eligible for Child Benefit.

Scotland: The report states that low-income families with children under the age of 16 claiming Scottish Child Payment must have their habitual place of residence in Scotland. Scottish Child Payment is separate from and additional to Child Benefit and eligibility is tied to receipt of certain earmarked benefits.

Isle of Man: The report indicates that in order to qualify for child benefit, a person must have lived on the Isle of Man or in the UK for more than 6 months in the last 12 months (unless the person is employed and paying National Insurance contributions). In addition, an individual may not be able to claim child benefit if he / she is subject to immigration controls (see the report for more details).

The Committee recalls that Article 16 precludes length of residence requirements as far as contributory benefits are concerned, but States may apply a length of residence requirement as regards non-contributory benefits on condition that the length is not excessive. The proportionality of such length of residence requirements is examined on a case-by-case basis having regard to the nature and purpose of the benefit: a period of 6 months is reasonable and therefore in conformity with Article 16. On the other hand periods of 1 year, and a fortiori, 3-5 years are manifestly excessive and therefore in violation of Article 16.

In the light of all the information at its disposal, the Committee understands that nationals of States Parties to the European Social Charter (other than EU nationals) are entitled to child benefit only after 2, 3 or 5 years of continuous residence. The Committee considers that this situation is 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 family benefits is not ensured due to the excessive length of residence requirement.

Level of family benefits

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee noted with concern that the amount of the child benefit had remained at the same level since 2009 (Conclusions XIX-4 (2011)) and had therefore declined in proportion to the median income, in particular for the second and subsequent children (3.8%). Consequently, the Committee asked for comprehensive information on the child benefit system, the impact of the benefit cap on child benefits as well as information on the real value of child benefits. In the meantime, the Committee reserved its position on the adequacy 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 the report that the median equivalised income in the UK stood at £ 2,049 (€ 2,365) in 2020-2021.

In response, the report indicates that Child Benefit is not means-tested and is available to anyone who qualifies. It is a non-contributory, non-taxable benefit. The report states that the United Kingdom Child Benefit is £21.80 per week (€ 25) for the first child and £14.45 (€ 17) (per child) for additional children. The estimated Child Benefit take-up for the period 2019-2020 is 91%.

The report recalls that a child benefit recipient whose income or that of his or her partner exceeds £50,000 (€ 57,708) per tax year is subject to the child benefit tax on high incomes. The persons concerned can opt not to receive child benefit in order to be exempt from paying this tax.

The report also indicates that there are two forms of credit: (1) a Child Tax Credit which is a means-tested form of support for working or unemployed families (with children) living in the UK, and (2) Working Tax Credit (WTC) which provides financial support in addition to earnings to low-income working households living in the UK (with or without children). According to the report, from April 2022 there have been no new tax credit claims, the portal to claims was closed to all new claims from that date with all future welfare benefits being paid through Universal Credit, introduced in 2013 to replace various benefits including Child Tax Credit and Working Tax Credit (the aim being to redirect remaining users by March 2024). The Committee understands that families on lower incomes or in more vulnerable circumstances would be eligible for additional means-tested benefits such as Universal Credit in addition to Child Benefit. The Committee takes note of the median equivalised income for the reference period, based on scenarios reflecting the various ways a family may receive benefits, including Universal Credit and Child benefit, to supplement their income through the UK welfare system.

In its comments, the University of Essex states that more and more families in poverty have to deal with child protection interventions because of the lack of economic freedom as a result of social security cuts. It indicates that austerity measures enacted by the UK Government in the 2010s, and the Government's failure to adequately address economic fallout from the Covid-19 pandemic and the cost-of-living crisis, have resulted in more economic insecurity for families with lived experience of poverty, which puts their socio-economic rights at risk. Due to economic disadvantage, families of a lower socio-economic background are helpless in avoiding discrimination on the grounds of povertyism and the potential harms inflicted onto their family by a disproportionality risk-averse system. The University of Essex adds that local authorities and social work services are crumbling as a result of years of funding cuts.

Scotland: The report indicates that when Social Security is fully operational, there will be a total of 17 benefits. During the pandemic, the Government introduced four new benefits. These included the Scottish Child Payment, a “game-changing” non-means-tested benefit designed to eradicate child poverty and provides vital financial support to low-income families. Scottish Child Payment, launched in February 2021, is paid at £20 (€ 23) per eligible child per week (£25 (€ 29) since November 2022). The Committee notes the other benefits provided to pregnant women and families with children.

In its comments, the Scottish Human Rights Commission adds that social security in Scotland remains largely legislated and administered by the United Kingdom, including the majority of income replacement benefits such as Universal Credit and Child Benefit. The Committee notes the information provided by the Scottish Human Rights Commission on financial support for family, and the detailed response of the UK Government to these comments.

Isle of Man: The report indicates that Child Benefit is means-tested. In particular, the Committee notes that since April 2015, a person is not entitled to child benefit if the household income is considered to be above the upper income threshold of £80,000 (€ 92,333) per annum. If the household income is above the lower income threshold of £50,000 (€ 57,708), the person can claim child benefit but at a lower rate than the full amount that would otherwise be paid for the child. The Committee takes notes of reductions presented in the report.

The report states that the maximum amount of Child Benefit is £23.05 (€ 27) per week for the first child and £15.20 (€ 17.5) (per child) for additional children. The Committee takes note of other benefits presented in the report.

The Committee notes that child benefit for the eldest child represented 4.6% of the median equivalised income in 2020-2021, and only about 3% for each additional child. On the other hand, the Committee notes from OECD data that in 2019, public spending on family benefits

in the United Kingdom amounted to 2.408% of GDP, which is higher than the average in OECD countries (2.109%). However, on the basis of the information available and taking into account the various tax credits, the Committee considers that the situation is not in conformity with Article 16 of the 1961 Charter on the ground that the amount of basic child benefit is insufficient.

Measures in favour of vulnerable families

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for information on measures taken to support vulnerable families and single-parent families in England, Scotland, Wales and Northern Ireland.

England: The report indicates that since April 2015, the Supporting Families Programme (formerly the Troubled Families Programme, see the previous conclusion for details) has provided funding to local areas to help over 520,000 families with multiple and complex needs to significantly improve their lives. The Committee takes note of the information provided in the report on support given to vulnerable families including in relation to unemployment, poor school attendance, domestic abuse and poor mental and physical health.

Scotland: The report indicates that the Scottish Government has continued to support low-income families who are raising disabled or seriously ill children as well as young people through the Family Fund. This Fund provides support, advice, and direct grants to families. In addition, various actions in the 2018-2022 Tackling Child Poverty Delivery Plan focus on the six priority family types most at risk of poverty, including single parents (see the report for more details).

Wales: The report states that the Well-being of Future Generations (Wales) Act 2015 aims to improve the social, economic, environmental and cultural well-being in Wales. It is intended to make the public bodies listed in the Act think more about the long-term, work better with people and communities and with one another, seek to prevent problems and take a more joined-up approach.

The report also indicates that the Socio-economic Duty commenced on 29 September 2020. The overall aim of the duty is to improve the situation of those who are socio-economically disadvantaged. The duty supports this objective by ensuring that public bodies covered by the legislation pay due regard to socio-economically disadvantaged persons when making strategic decisions.

The Committee takes note of the detailed information on child poverty provided in the report.

Due to the failure to provide requested information for Northern Ireland, the Committee concludes that the situation in the United Kingdom 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 the United Kingdom of its reporting obligations under Article 21 of the 1961 Charter.

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 £37 billion has been earmarked to support the cost of living (changes to the personal tax system, a domestic energy provision, fixed cost of energy, additional payments for households on means-tested benefits, etc.) in 2022 (outside the reference period). It notes the support announced for the most vulnerable households (about 8 million households) in 2023-2024 (outside the reference period).

The report adds that the Government introduced the Energy Price Guarantee to shield people from energy price rises. It fixed the cost of energy so that a typical household spends the equivalent of £2,500 (€ 2,885) a year on energy bills, saving £900 (€ 1,039) 2023 winter.

Scotland: The report indicates that the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act was passed in 2019. It sets out a new definition of fuel poverty and extreme fuel poverty, focusing on low-income households and targeting support to those most in need. The Fuel Poverty strategy outlines comprehensive actions to tackle the four drivers of fuel poverty, so that everyone is guaranteed access to the energy they need to live comfortably. In addition, since winter 2020, the Fuel Insecurity Fund has been in place to support people, regardless of fuel used, who are at risk of self-disconnection or self-rationing their energy use. Moreover, a new statutory Scottish Fuel Poverty Advisory Panel was established from January 2022 (outside the reference period). The panel is an advisory non-governmental public body which will oversee the implementation of the Fuel Poverty Strategy, providing an important means of external monitoring of progress towards the targets set out in the Act.

Isle of Man: The report states that in 2018, the Government launched the Energy Efficiency Scheme to help residents pay their fuel bills and reduce usage of fossil fuels. The scheme provides grants of up to 75% of the cost of energy efficiency improvement works permitted under the scheme (capped at a total of £1,000 (€ 1,154)). The scheme is open to homeowners and private renters. In addition, there is a 'winter bonus' which is an automatic lump sum payment normally worth £350 (€ 404) intended to help certain people meet the extra costs of heating their homes during the winter months. In 2018, this helped around 2,300 people on low incomes. In October 2021, a financial support package was announced for the low-paid and vulnerable persons in response to rising home heating costs. A Variable Rate Winter Bonus was also introduced for those who are not in receipt of income support but whose incomes are just above the threshold. This varies between £25 (€ 29) and £75 (€87) depending on individual circumstances and income.

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

In response, the report indicates that the UK Chancellor announced a temporary six-month extension to the £20-a-week increase in Universal Credit at the Budget in March 2021 to support households affected by the Covid-19 economic shock.

The report adds that the conditions for granting Child Benefit did not change during the pandemic; however, some temporary measures relating to child benefit were introduced. Their main aim was to ensure that families would continue to be entitled to Child Benefit where their situation or circumstances were affected. According to the report, the measures included, for example, allowing claimants to continue receiving Child Benefit for children in education while schools were closed and the children had to stay at home.

Scotland: The report states that to support those who were most at risk from the impact of the pandemic, funding was allocated to councils, charities, businesses and community groups so that they could respond quickly and according to local needs. The Scottish Government made additional investment in social care as a result of Covid-19, bringing targeted spending to support low-income households to almost £2.5 billion in 2020-2021. This included flexible funding for local authorities to tackle financial insecurity and support access to food and other essentials.

Isle of Man: according to the report, several measures have been taken to ensure that vulnerable families receive sufficient support during the Covid-19 pandemic; all support specifically linked to Covid-19 has now been withdrawn.

Housing for families

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee noted that two consultation processes had been launched in 2018 and 2019. One concerned the effectiveness of existing powers to deal with unauthorised sites and the other concerned

measures to criminalise trespass when setting up an unauthorised encampment in England and Wales. Accordingly, the Committee asked for information on the results of both consultations and on any legislative or other reforms proposed in this field.

The report explains that the Home Office's 2019 consultation entitled "Strengthening Powers to Tackle Unauthorised Encampments" built on responses to the 2018 Government consultation "Powers for Dealing with Unauthorised Development and Encampments". The responses to the 2018 consultation showed that people wanted more protection for local communities and wished that the police were given greater powers to crack down on trespassers. The Committee takes note of details provided in the report.

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for detailed and updated information on the Planning Policy for Traveller Sites and on the overall number of available authorised sites for Gypsies/Travellers in **England**. In the meantime, it reserved its position on this issue.

In response, the report indicates that the Planning Policy for Traveller Sites 2015, in conjunction with the National Planning Policy Framework 2021, sets out the UK Government's planning policy for traveller sites. Under this policy, local planning authorities should assess the needs for Traveller accommodation and select sites. Information on the number of pitches and sites for Gypsies and Travellers is collected at local authority level. The report adds that between 2010 and 2021, 1,294 permanent and affordable pitches for Travellers have been delivered.

Scotland: In its previous conclusion, the Committee noted that the Scottish Government had updated some documents relating to the assessment of need and demand for Gypsy and Traveller housing and asked whether the existing sites met all the minimum standards or whether progress had been made to date.

In response, the report indicates that the Gypsy/Traveller Minimum Standards published in 2015 are now part of the Scottish Social Housing Charter. Compliance with the standards is monitored and reported on by the Scottish Housing Regulator. The Committee observes that in November 2022 (outside the reference period), there was one inhabited site that did not yet meet the minimum standards. The Scottish Housing Regulator has engaged with the provider to consider options for the site.

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.

In addition, in its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for up-to-date information on housing policies for families in **England** and **Northern Ireland**, including figures on the overall availability (demand and supply) of social housing and other types of housing support (housing allowances).

England: The report states that the provision of affordable housing is part of the UK Government's plan to build more homes and provide aspiring homeowners with a step onto the housing ladder. In particular, the £11.5 billion Affordable Homes Programme will deliver thousands of affordable homes for rent and purchase across the country. According to the report, over 162,800 social housing units have been delivered since 2010. Due to the failure to provide requested information on the demand for social housing, the Committee concludes that the situation in the United Kingdom 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 the United Kingdom of its reporting obligations under Article 21 of the 1961 Charter.

With regards to housing allowances, the report indicates that entitlement is assessed by comparing a person's net income with an "applicable amount", i.e., intended to cover day-to-day living expenses, taking account of the size and make-up of the household. The applicable amount is made up of personal allowances, calculated on the basis of age and family status,

and flat-rate premiums for groups recognised as having special needs (disabled people, families and the elderly, etc.). If a person's income is less than or equal to the applicable amount, he or she will usually receive the maximum amount of housing benefit.

The report adds that help is available to those who receive Universal Credit and who have rental obligations on the home they live in.

Due to the failure to provide requested information on housing policies for families in Northern Ireland, the Committee concludes that the situation in the United Kingdom 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 the United Kingdom of its reporting obligations under Article 21 of the 1961 Charter.

Scotland: The report indicates that a long-term strategy for housing - the Housing to 2040 - sets out a vision for housing by 2040 and an action plan to achieve this. In addition, under the Housing (Scotland) Act 2001, local authorities should develop a strategy that sets out the priorities, programmes and arrangements for the provision of housing and related services for all types of tenure to meet the needs identified in their region. This strategy must be supported by an assessment of housing supply and related services. The Committee notes that during the reference period, a total of 35,070 affordable homes were delivered, including 24,968 social rented homes. Moreover, through the Affordable Housing Supply Programme, 3,220 households with children have been helped into affordable housing in 2021.

Isle of Man: The report indicates that public sector housing is provided by various housing authorities, which manage different areas of the Island. The Department of Infrastructure provides public sector housing in areas where there is no functioning housing authority. The Department's public sector housing is located in different areas of the Island and totals approximately 1,200 homes. The report adds that the Housing and Communities Board was established in response to a perceived housing crisis on the Isle. It is working to bring together all housing policy, law and provision into one national housing strategy, with the aim of providing suitable and affordable homes for all (see the report for more details).

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for information on the implementation of the Homelessness Reduction Act of 2017 and its practical impact on the prevention of family homelessness in England.

In response, the report states that the Homelessness Reduction Act 2017 (which came into force in 2018) sets out the local authorities' statutory duties to a person who is at risk of homelessness or is homeless. Under the Act, local authorities must seek to prevent or alleviate homelessness for all eligible applicants who are homeless or threatened with homelessness, irrespective of whether or not they have a priority housing need. The report adds that if a housing authority is unable to prevent an applicant from becoming homeless, or to help him or her to secure accommodation within the 'relief' stage, the authority is required to decide whether the applicant is in priority housing need.

The Committee observes that since 2018, over 500,000 households have had their homelessness successfully prevented or alleviated by securing accommodation for more than 6 months.

The Committee notes the full list of priority needs categories (in Chapter 8 of the Homelessness Code of Guidance) and the UK Government's review of the implementation of Homelessness Reduction Act published in 2020.

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked for information on the housing situation of refugee families in the United Kingdom.

In reply, the report indicates that anyone resettled to the UK through a resettlement scheme is granted free indefinite leave to remain (ILR) and is entitled to education, work and access to public funds on the same basis as British Citizens. In particular, housing provided by local authorities for refugees is subject to the same statutory requirements as apply to the UK

population (the Housing Act 2004, part 1). Where asylum seekers are granted refugee status, they may also be eligible for housing assistance from their local authority.

The Committee also notes that an additional 28 days' asylum support is provided after refugee status is granted to give individuals the opportunity to make arrangements for their accommodation and the support they will need thereafter.

Conclusion

The Committee concludes that the situation in the United Kingdom 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;
- the amount of child benefits is insufficient.

Due to the failure to provide the information listed below, the Committee concludes that the situation in the United Kingdom 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 the United Kingdom of its reporting obligations under Article 21 of the 1961 Charter.

Information missing:

- measures taken to support vulnerable families and single-parent families in Northern Ireland;
- the demand for social housing;
- housing policies for families in Northern Ireland.

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 the United Kingdom and in the comments submitted by the University of Essex and the Scottish Human Rights Commission.

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 the United Kingdom was not in conformity with Article 17 of the 1961 Charter on the grounds that not all forms of corporal punishment were explicitly prohibited in the home; the age of criminal responsibility was too low and pain inducing restraint techniques were used in Young Offender Institutions (Conclusions XXI-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

The Committee has previously asked for information on the impact of the United Kingdom’s withdrawal from the European Union on children’s rights, namely the impact on residency rights and rights to access Charter rights-related institutions and services for children who are both nationals of States Parties to the Charter and European Union nationals but not UK nationals (Conclusions XXI-4).

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 EU, other EEA and Swiss nationals lawfully residing in the UK on 31 December 2020, had a right to remain there by applying to the EU Settlement Scheme. A child does not need a parent’s or guardian’s consent to make an application but in such a case, checks are carried out in order to ensure that children are protected.

In reply to the targeted questions, the report states that in April 2019, the route to settlement for those who are genuinely stateless was simplified. The Government continues to work with overseas organisations and the UNHCR to find durable long-term solutions to statelessness.

The report further states that registering a birth within 42 days is a legal requirement, although it is possible to do it after this time. Asylum seekers and rejected asylum seekers receiving asylum support can obtain financial help when registering the birth of their child if the child was born in the UK.

Protection from ill-treatment and abuse

The Committee has previously concluded that the situation in the United Kingdom was not in conformity with the Charter on the ground that not all forms of corporal punishment were explicitly prohibited in the home (Conclusions XXI-4).

It appears from the report and the Concluding observations on the combined sixth and seventh periodic reports of the UK by the Committee on the Rights of the Child of 22 June 2023 that the situation in the UK has not changed. The Committee therefore reiterates its conclusion of non-conformity on the ground that not all forms of corporal punishment are explicitly prohibited all settings.

Child poverty

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

The report states that vulnerable families receive help with food costs. In Scotland, six types of priority families were identified as being most at risk of child poverty and support is provided to them. In Wales, the Government has undertaken to improve the situation of low-income households and achieve child poverty objectives. On the Isle of Man, pupils receive free meals, financial assistance for school uniforms and extra-curricular activities.

The report also states that in Scotland, between 2017 and 2021, the Scottish Government funded 26 race equality organisations and since October 2021, funding has been provided to 14 such organisations. The Race Equality and Anti-Racism in Education Programme was introduced in early 2021. On the Isle of Man, the 2017 Equality Act aims to promote equal opportunities for people.

In its comments, the Scottish Human Rights Commission states that Scotland has high rates of child poverty (24% according to most recent data).

In its comments, the University of Essex states that the Government should update benefits in line with the inflation and set the benefits to the level at which recipients can afford the necessary essentials in life. The Government must address economic fallout created by the cost-of-living crisis in order to alleviate poverty and financial hardship that many families are experiencing. The Government did not provide a response.

The Committee notes from EUROSTAT that in 2018, 29.2% of children in the United Kingdom were at risk of poverty or social exclusion. The Committee notes that this percentage is quite high compared with the EU average of 23.9% that same year was and concludes that the situation in the United Kingdom is not in conformity with Article 17 of the 1961 Charter on the ground that the rate of children at risk of poverty is too high.

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

The Committee has previously requested information on the assistance given to unaccompanied children, in particular to protect them from exploitation and abuse and ensure that unaccompanied children did not go missing. It requested further information on measures taken to find alternatives to detention for asylum-seeking families, to ensure that accommodation facilities for children in an irregular migration situation, whether accompanied or unaccompanied, were appropriate and adequately monitored. It also asked whether the United Kingdom used bone testing to assess age and, if so, in what situations and what the potential consequences of such testing were (Conclusions XXI-4).

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

In reply to the questions asked in previous conclusions, the report states that the UK Government takes steps to ensure that every unaccompanied asylum-seeking child is placed with a local authority as soon as possible after their arrival. Children are only accommodated in hotels when there is no other option. Moreover, under section 96 of the Immigration and Asylum Act 1999, accommodation for asylum seekers must be suited to the needs of the person and any dependants receiving assistance.

With regard to bone testing, the report states that the UK does not use bone or dental testing to assess age.

In reply to the targeted question, the report states that in Scotland, there are a number of support services available to children experiencing a mental health crisis. The Safeguarding Board for the Isle of Man aims to ensure effective work between relevant departments and agencies to protect children from abuse and neglect.

In its comments, the Scottish Human Rights Commission states that minor asylum seekers are placed in the Dungavel Immigration Removal Centre, although since the 2010 policy directive, only adult asylum seekers should be housed in immigration detention. It also states that significant concerns have been raised about unaccompanied asylum-seeking children going missing from hotels. The Government did not provide a response.

The Committee notes from other sources (ECPAT UK) that children in an irregular migration situation missing from hotels is an issue in the United Kingdom. The Committee recalls that States Parties must take the necessary and appropriate measures to guarantee unaccompanied minors the care and assistance they need and to protect them from negligence, violence or exploitation, thereby posing a serious threat to the enjoyment of their most basic rights, such as the rights to life, to psychological and physical integrity and to respect for human dignity (*Defence for Children International (DCI) v. Belgium*, Complaint No. 69/2011, decision on the merits of 23 October 2012, §82). The Committee concludes that the situation in the United Kingdom is not in conformity with Article 17 of the 1961 Charter on the ground that children in an irregular migration situation in hotels are not adequately protected from negligence, violence or exploitation.

Rights of children in public care

In its previous conclusion, the Committee asked for details on the number of children taken into state care in all parts of the United Kingdom, as well as the number in foster care and

residential care. Noting that many children's homes were run by private providers and many foster families in England were recruited by private agencies, it asked what mechanisms were in place to ensure appropriate care of adequate quality. It also asked for information on guarantees that a child cannot be taken into care solely on the grounds of the parents' financial situation in England, Scotland and Northern Ireland (Conclusions XXI-4).

The report states that in England, in 2018, 75,370 children were taken into care, in 2019 – 78,140, in 2020 – 80,000 and in 2021 – 80,850. In 2021, Scotland had 13,255 children and young people in care, of whom 1,286 were in residential accommodation; in 2018, 14,554 children were in care, of whom 1,512 were in residential accommodation. In Wales in 2018, there were 6,405 in care (including 400 in residential settings), in 2019 – 6,855 (including 475 in residential settings), in 2020 – 7,165 (including 540 in residential settings) and in 2021 – 7,245 (including 535 in residential settings). On the Isle of Man in 2019, 64 children were in care, in 2019 – 65, in 2020 – 67 and in 2021 – 58.

The report further states that in England, any person who operates or manages a children's home or an independent foster care agency must register with Ofsted. The 2015 Children's Homes (England) Regulations set out the requirements for appropriate care of adequate quality and set out standards that must be met by homes.

The report states that the threshold for a child to be taken into the care of the local authority requires that the child is suffering, or likely to suffer significant harm and that this harm, or likelihood of harm, is attributable to the care given to the child or is likely to be given. Furthermore, in Scotland, for example, children are not taken into care solely on the grounds of inadequate resources.

In its comments, the University of Essex states that children and families in poverty are significantly more likely to be the subject of State intervention and that policies which set the structural context of children's social care services should be "poverty-proof". Furthermore, forced (contested) adoptions are a frequent occurrence in the UK, and greater support for kinship care could help reduce their number. Moreover, unregulated accommodation for children aged 16-18, where there can be a complete lack of supervision, has long been widespread. In addition, the Government and local authorities should, where applicable, regulate and monitor for-profit children's homes.

The Committee notes in the November 2020 report from the Children's Commissioner for England on the private provision of children's social care that, over the last decade, care for the most vulnerable children has increasingly been provided by the private sector as the demand for care has grown and the local authority provision has not kept pace, or has even shrunk in some areas. There were over 11,000 more children in care in 2019 than in 2011 – 73% of those additional children were cared for by private organisations. Over the last decade, there has been an expansion of both smaller providers and major private equity investors. Furthermore, over the course of a year, one in eight children in care will spend some time in an unregulated placement. The Committee notes with concern the increase in the number of children cared for by private organisations and points out that, even in such cases, the State remains responsible for ensuring that the children receive the care and assistance they need and that their rights are respected through independent monitoring.

In its comments, the Scottish Human Rights Commission states that the system of care in Scotland is complex and fragmented.

Children in conflict with the law

The Committee has previously concluded that the situation in the United Kingdom was not in conformity with Article 17 of the 1961 Charter on the grounds that the age of criminal responsibility was too low and that pain-inducing restraint techniques were used in Young Offender Institutions. It wanted to know whether there was an absolute maximum length of detention on remand. The Committee asked what measures had been taken to phase out

young offender institutions and secure training centres and transfer children to secure children's homes or secure training schools run by local authorities. It also asked what additional measures had been taken to ensure that children in young offender institutions and secure training centres were adequately protected against abuse. Further, the Committee asked under what circumstances children could be placed in solitary confinement, and what was its maximum duration (Conclusions XXI-4).

The report states that the age of 10 set for criminal responsibility in England and Wales correctly reflects what is required of the justice system and there are no plans to change the age of criminal responsibility in England. The Committee notes that in Northern Ireland, the age of criminal responsibility is 10 years old and 12 years old in Scotland. In these circumstances, the Committee reiterates its conclusion of non-conformity on the ground that the age of criminal responsibility is too low.

The report further states that the use of pain-inducing restraint techniques may be required in very limited circumstances. A pain-inducing technique should not be used where a non-painful alternative is possible and can safely and effectively achieve the same objective. The Committee notes that pain-inducing techniques are still used and notes from the Concluding observations on the combined sixth and seventh periodic reports of the UK by the Committee on the Rights of the Child of 22 June 2023, that a large number of children continue to experience such treatment. The Committee therefore reiterates its conclusions of non-conformity on the ground that pain-inducing restraint techniques are used in Young Offender Institutions.

The report states that in England, except in the most serious cases, children will be tried in the juvenile court where pre-trial detention is 56 days. 182 days apply only in exceptional cases in the Crown Court. The report further states that there is no absolute maximum length of remand in custody and extensions are possible. In Scotland, the maximum length of pre-trial detention is 140 days. The Committee recalls that it has previously found that eight-month and seven-month period of pre-trial detention was not in conformity with the Charter (Conclusions XX-4, 2015, Denmark, Conclusions 2019, Slovak Republic). The Committee considers that in order to be in conformity with the Charter, pre-trial detention of children should not exceed six months. It therefore concludes that the situation in the United Kingdom is not in conformity with Article 17§1 of the 1961 Charter on the ground that the maximum length of pre-trial detention of children in England is excessive.

The report states that secure schools are a new type of accommodation for children sentenced or remanded to custody. The Government has also undertaken to improve the life chances of children in custody by investing in staff, education, psychology services and mental health support. Five Young Offender Institutions have specialist social workers seconded on sites. In addition, the monitoring of incidents on the sites has been improved and the risk of child abuse has been reduced. Children are supported by advocates at the sites.

The report further states that solitary confinement is not practised in Scotland but separation is possible; in Northern Ireland, single separation may be used where it is in the best interests of the child and is for the shortest time possible; on the Isle of Man, solitary confinement is not practised.

In its comments, the Scottish Human Rights Commission states that the age of criminal responsibility is still too low. 16–17-year-olds continue to be placed in adult prisons. The use of remand is disproportionate.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 17 of the 1961 Charter on the grounds that:

- the rate of children at risk of poverty is too high ;
- not all forms of corporal punishment are prohibited in all settings;

- children in an irregular migration situation placed in hotels are not adequately protected from negligence, violence or exploitation;
- the age of criminal responsibility is too low;
- pain inducing restraint techniques are used in Young Offender Institutions;
- the length of pre-trial detention of children in England is excessive.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

The Committee takes note of the information contained in the report submitted by the United Kingdom and in the comments submitted by the Scottish Human Rights Commission, as well as the reply of the Government to those comments.

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

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee considered that the situation in the United Kingdom was in conformity with Article 19§1 of the 1961 Charter, pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the questions raised in its previous conclusion.

Migration trends

The Committee had assessed previously the migration trends in the UK (see for a detailed description Conclusions XX-4 (2015)).

In response to the Committee’s request for an up-to-date description on the developments in the migration trends (Conclusions XXI-4 (2019)), the report provides information and statistics on the migration trends in the United Kingdom and the Isle of Man.

Policy and the legal framework

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee asked that the next report provide up-to-date information on any new or continued policy initiatives.

The report provides detailed information on the policies and legal framework relating to migration matters in the UK and the Isle of Man. It points out that the points-based system (PBS) was introduced in 2021 following the EU referendum and end of free movement on 31 December 2020. According to the PBS, anyone coming to the UK for work or study, or are joining family members in scope of the Withdrawal Agreement with the EU/ Citizens Rights Agreements with the other EEA countries and Switzerland, must meet a specific set of requirements for which they will score points. Visas are then awarded to those who gain enough points.

The report lists the type of programs available for migrants such as: Skilled Worker route; Innovator route; Health and Care visa; Global Talent route; Global Business Mobility route; Student route; Graduate route, etc. The report also provides information on the EU Settlement Scheme (EUSS) which enables EU, other EEA and Swiss citizens resident in the UK by the end of the transition period at 11pm on 31 December 2020, and their family members, to obtain immigration status in the UK. It also provides information on the Hong Kong BN(O) route – an immigration route for British National (Overseas) (BN(O)) status holders and their eligible family members.

Measures against misleading propaganda relating to emigration and immigration

In its previous conclusion, the Committee took note of a range of measures aimed at combatting discrimination, xenophobia and racism taken in the UK, Scotland, Isle of Man and Northern Ireland (see for a detailed description Conclusions XXI-4 (2019)). It asked that the next report provide up-to-date information on the ongoing measures and their noted or expected outcomes, as well as on any further actions envisaged (Conclusions XXI-4 (2019)).

The report provides information on the actions carried out in relation to social media, as one of the key areas where the UK's Organised Immigration Crime (OIC) Taskforce looks to identify and disrupt the smugglers' business model. The UK Government continues to work with social media companies to review their policies, ensure they are consistently enforced, and they are transparent when working with law enforcement. The report indicates that the National Crime Agency and social media companies concluded a ministerially endorsed voluntary Action Plan in late 2021, to enhance joint activity to tackle content advertising illegal OIC services on online platforms, including content relating to small boat crossings.

As for the Isle of Man, the report states that should specific instances of misunderstanding or misinformation be circulated in the media, then Isle of Man Government public communications are normally made aware and appropriate action taken, be it a statement in the local Parliament, information posted on government webpages or even public sessions organised and delivered by immigration officers.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 19§1 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 2 - Departure, journey and reception

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

The Committee recalls that no targeted questions were asked for Article 19§2 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 Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee deferred its conclusion, pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of deferral.

Immediate assistance offered to migrant workers

The Committee has examined the legal framework concerning the assistance offered to migrant workers in its previous conclusion (Conclusions XXI-4 (2019)). It asked the next report to provide information on the impact of Brexit and any assistance offered to migrant workers in this context (Conclusions XXI-4 (2019)).

The report reiterates that accident and emergency treatment and GP appointments are free to all regardless of residence status, although individuals may be required to pay for services which the ordinarily resident population are expected to pay for, such as prescription charges (see also for details previous conclusion (Conclusions XXI-4 (2019))). Most temporary migrants living or arriving in the UK with permission will receive healthcare, broadly on the same basis as ordinary residents as they will have paid the Immigration Health Surcharge (“IHS”) with their visa application (when coming to the UK for 6 months or more). Once their visa has been granted, the IHS covers all healthcare for the duration of their visa, including for pre-existing conditions, other than assisted conception services which remain chargeable.

In response to the Committee’s question regarding the impact of Brexit, the report states that broadly speaking, the NHS charging has remained the same with the exception that EU nationals (and their family members and dependents) who not covered by the Withdrawal Agreement with the EU are no longer exempt from charge, and therefore may be chargeable for treatment where an exemption does not exist, unless they have paid the IHS as part of their visa or are capable of being considered ordinarily resident. For those covered by the Withdrawal Agreement, the Home Office introduced the EU Settlement Scheme which enabled a person with limited leave to remain (pre-settled status) to be considered ordinarily resident, and therefore exempt from charge for relevant services.

Concerning Scotland, the report states that the Scottish Government has also funded the establishment of a Worker Support Centre which offers vital advice and urgent practical support to seasonal horticultural workers in Scotland on the Seasonal Workers Visa including those of Ukrainian nationality as a result of the ongoing conflict. This new service is focused on providing information and support through support workers, a project advisor and legal team. The Worker Support Centre follows models used around the world to offer temporary migrant workers advice and support which can help prevent workers ending up in situations of human trafficking.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 19§2 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 3 - Co-operation between social services of emigration and immigration states

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

The Committee recalls that no targeted questions were asked for Article 19§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee deferred its conclusion, pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of deferral.

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee has asked for information on inter-service cooperation which would allow migrant workers to resolve any personal and family difficulties.

The report states that migrant workers who have difficulties with unpaid wages, employee benefits and/or any other employment related issues have the same rights as permanent residents of the UK. The report further indicates that there is a range of different sources of advice to help migrant workers’ access support. These are available through both public and third-sector sources, including the website www.gov.uk and Citizens’ Advice. The report emphasises that local authorities can offer support to migrant workers and their family members, particularly those who might be at risk of destitution. The UK Central Government does not regularly monitor this area as it is a devolved matter for local authorities.

The Committee further notes that co-operation exists with Ukraine under the Ukraine Family Scheme and the EU Settlement Scheme which allow Ukrainian nationals to work and study in the UK (www.gov.uk). It takes note of the submission of the UK Government to the Global Compact for Migration European Regional Review according to which the UK continues to engage regularly with countries of origin and transit to support safer, more orderly and regular migration. In addition, the UK regularly engages with a range of European partners on irregular migration, both bilaterally and multilaterally. This involves concerted, co-ordinated interventions at all stages of a migrant’s journey that reduce irregular migration, tackle criminality/trafficking, and protect the vulnerable.

Concerning Scotland, the Scottish Government is committed to supporting refugees, asylum seekers and Scotland’s communities through the pioneering and collaborative approach of the New Scots refugee integration strategy 2018-2022. The strategy is led in partnership by the Scottish Government, the Convention of Scottish Local Authorities (COSLA) and the Scottish Refugee Council.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 19§3 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 4 - Equality regarding employment, right to organise and accommodation

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

The Committee recalls that no targeted questions were asked for Article 19§4 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 Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion (Conclusions XXI-4 (2019)), the Committee concluded that the situation in the United Kingdom was in conformity with Article 19§4 of the 1961 Charter, pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the questions raised in its previous conclusion.

Remuneration and other employment and working conditions

In its previous conclusion, the Committee asked that the next report provide information on practical measures taken to implement the legislative framework in the UK, in particular on any awareness-raising or targeted support programmes (Conclusions XXI-4 (2019)).

The report provides information on the Equality Advisory Support Service (EASS) which is a Government-managed equality and human rights helpline. It offers free advice to individuals who think they may be the victim of discrimination. The EASS handles between 35 and 40,000 customer contacts a year, and has a high Google profile, ranking top for any search under "equality advisory", "equality support" or "equality service".

The report further provides information on the campaigns run on issues which link to provisions and protections in the Equality Act 2010, such as the Home Office's "Enough" campaign launched in March 2022 on ways to intervene and address harassment. The Equality and Human Rights Commission (EHRC) also runs periodic awareness-raising and/or support programmes, such as the recent programmes to fund legal action against disability and race discrimination.

The report states that the Isle of Man's Equality Act 2017 has been promoted by Government online and via social media. However there have been no campaigns specifically targeted towards migrants relating to their rights under the Act.

Monitoring and judicial review

In its previous conclusion, the Committee noted that in the Isle of Man, the 2017 Act establishes the Employment and Equality Tribunal as the forum for all employment complaints, including concerning discrimination. The Committee asked the next report to provide information on the impact of Brexit in this context (Conclusions XXI-4 (2019)). The report indicates that in the Isle of Man, Brexit has had limited impact on employment rights and complaints regarding discrimination as employment rights are not derived from EU law.

In its previous conclusion, the Committee asked for updated information on judicial review available in the UK for all aspects covered by Article 19§4 (Conclusions XXI-4 (2019)).

The report states that there been no change in the UK's position with respect to judicial reviews available in the UK for all aspects covered by Article 19§4. Employment tribunals still remain open as an avenue for employment rights, the right to organise under free association or the

right to accommodation. Public bodies can still have the lawfulness of their decisions examined in the courts.

In its previous conclusion, the Committee noted that cuts to funding and monitoring were undermining the UK's traditional international strengths on anti-discrimination equality. It noted that 2012 saw cuts made to mandatory equality impact assessments and to 50% of the equality body's budget (Conclusions XXI-4 (2019)). The Committee asked the next report to comment on these observations and to explain whether these cuts reduced the capacity of equality actors and public sector to promote access to justice and equal treatment in practice targeted towards migrant workers (Conclusions XXI-4 (2019)).

The report indicates that the legislation on the public sector equality duty has not been changed since 2010. The EHRC has retained its 2021/22 budget of £17.1m into 2022/2023 and has recently been re-accredited an "A" status National Human Rights Institution at the UN. The EHRC's responsibilities on migrant workers relate to enforce the Equality Act 2010 (in practice, discrimination in employment or the provision of services, probably on grounds of race) and its powers in relation to the Human Rights Act.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 19§4 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 5 - Equality regarding taxes and contributions

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

The Committee recalls that no targeted questions were asked for Article 19§5 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 Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

As the previous conclusion found the situation in the United Kingdom to be in conformity with the Charter (Conclusions XXI-4 (2019), there was no examination of the situation in 2023 on this point. Therefore, the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 19§5 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 6 - Family reunion

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

The Committee points out that no targeted questions were asked in relation to Article 19§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 report 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 the previous conclusion (Conclusions XXI-4 (2019)), the Committee concluded that the situation in the United Kingdom was not in conformity with Article 19§6 on the grounds that:

- the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.
- it has not been established that the language requirements imposed on the family members of migrant workers are not likely to hinder family reunion.

In the present conclusion, the assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of non-conformity and to other questions raised by the Committee in the previous conclusion.

Scope

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee noted from the Migration Integration Policy Index 2015 (MIPEX) report on the UK that hardly any non-EU can exceptionally be reunited with their dependent adult children or, since 2012, dependent parents/grandparents. In the previous conclusion, the Committee also found that the previous report did not reply to the Committee’s previous request (Conclusions XX-4 (2015)) concerning statistical information on accepted applications of dependent children of migrants over the age of 18. Therefore, the Committee strongly requested that comprehensive information on the scope of the family reunion is provided in the next report. It also considered that if the requested information is not provided in the next report, there would be nothing to show that the situation was in conformity with the Charter in this respect.

In reply, the report refers to the official website of the United Kingdom government providing information on government services and information concerning immigration. The report provides information concerning specifically the Isle of Man.

The Committee notes from this website that the following categories of family members may apply to join a migrant worker (sponsor) in the UK through the family reunification procedure: spouses or civil partners (if the couple is not married or in a civil partnership, the partner may be able to join the sponsor if they have lived together in a relationship like a marriage or civil partnership for at least 2 years); children under the age of 18 who are not married or in a civil partnership; if the child is aged 18 and over, they can apply as child if they are dependent on the financial and emotional support of the sponsor. The Committee also notes from its previous conclusions that parents, grandparents, and other dependent relatives also fall within the scope of family reunification.

Concerning the Isle of Man, the report states that the legal rules concerning family reunification are roughly on the same terms as in the United Kingdom. According to the report, typically there needs to be evidence of either financial or medical dependency on the individual that they will be joining in the Isle of Man, however other exceptional circumstances can be considered. The report also explains that in exceptional circumstances where the rules otherwise do not provide for a visa to be granted in a specific scenario, the Minister for the Cabinet Office has equivalent discretion to the UK Secretary of State’s power to grant leave outside the rules, which could be used in these circumstances.

The report does not provide the statistical information requested by the Committee in its 2015 Conclusion on accepted applications of dependent children of migrants over the age of 18. The Committee notes from the website of the Migration Observatory (migrationobservatory.ox.ac.uk) that in 2022 (outside the reference period) approximately 84% of all family reunification visa holders were partners of the sponsor, and 15% were children (Home Office Statistics, Entry Clearance Visas). Statistics are not regularly published on the number of adult or elderly dependent relatives admitted to the UK. However, according to the Home Office (2018), the number of adult or elderly dependent relatives' visas issued has been small since July 2012, when new rules came into effect restricting their entry. Between 2017 and 2020, 97% of visa applications under this route were refused. According to the Migration Observatory, the low number of adult or elderly dependent relatives' visas issued may be attributed to the stringent eligibility criteria for this route. However, the conditions governing family reunion will be examined by the Committee below. The Committee concludes that the scope of family reunification is in conformity with Article 19§6 of the Charter.

Conditions governing family reunion

Concerning the income requirement, in the previous conclusion (Conclusions XXI-4 (2019)), the Committee considered, on the basis of the information provided in the previous report, that social benefits could be taken into account towards the calculation of the available income. It asked the next report to confirm that this is the case.

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee noted from the 2015 MIPEX report that potential sponsors face "the highest and tightest income requirement in the developed world" with the requirement of £18,600 (approximately 21,585 euros) per year for spouse/partner, £22,400 including one child and extra £2,400 per additional child. The Committee recalled that it had found previously (Conclusion XX-4 (2015)) these amounts not to be in conformity with the Charter. It asked what the thresholds after the amendment of the Immigration Rules are.

In reply, the report indicates that in February 2017 the Supreme Court upheld the lawfulness of the minimum income requirement under the family Immigration Rules but obliged the authorities to look at how, in cases involving exceptional circumstances, all the financial support available to the family is assessed and to ensure that the best interests of any children are taken into account as a primary consideration in any decision affecting them. New Immigration Rules were implemented in 2017 to give effect to the Court's findings that, in circumstances where refusal of the application could otherwise breach Article 8 ECHR, other credible and reliable sources of income or funds available to the couple should be taken into account under the minimum income requirement. In this respect, the report refers to Paragraph 21A of Appendix FM-SE of the Immigration Rules which sets out objective criteria by which decision makers will in such cases assesses the genuineness, credibility and reliability or other sources of income, financial support or funds.

The Committee recalls that according to its established case-law, social benefits should not be excluded from the calculation of the necessary financial means (Conclusions 2011, Statement of Interpretation on Article 19§6). The Committee finds on the basis of the information provided in the report and in the "Statement of Changes in Immigration Rules" (Presented to House of Commons in 2017, assets.publishing.service.gov.uk) that as a rule, the grant of family reunification is still subject to the condition of no recourse to public funds, but the decision-maker must consider, on the basis of the information provided by the applicant, whether there are exceptional circumstances which would render refusal of entry clearance, or leave to enter or remain, a breach of Article 8 ECHR.

The Committee considers that the requirement that social benefits should not be excluded from the calculation of the necessary financial means has an autonomous existence under Article 19§6 of the 1961 Charter, irrespective of the assessment made by the decision-maker in concrete circumstances of a case with regard to the requirements of Article 8 ECHR. The

Committee considers that under the relevant domestic provisions, as a rule, social benefits are excluded from the calculation of financial means (rule of no recourse to public funds) and only in exceptional cases indicated above, that this general rule is not applicable.

The Committee therefore concludes that the situation in the United Kingdom is not in conformity with Article 19§6 on the ground that, as a rule, social benefits are excluded from the calculation of financial means.

Concerning the thresholds for income requirement for family reunification (§11 above), the Committee understands that the thresholds have not changed since the previous conclusion. The Committee finds (as in Conclusions XX-4 (2015)) that the threshold of £18,600 (or more) in income is manifestly too high and might be an undue hindrance to family reunion.

The Committee notes from the report that since the Supreme Court decision in February 2017 in relation to minimum income requirement, where a refugee family reunion application does not meet the requirements of the Immigration Rules, the authorities consider whether there are any exceptional circumstances which may justify a grant of leave outside the Immigration Rules, in order to be compliant with Article 8 ECHR. Nevertheless, the Committee also notes from outside sources (migrationobservatory.ox.ac.uk) that although the exact number of people prevented from coming to the UK for family reunification is not known, between 35% and 45% of people who would otherwise have applied successfully would not meet the current income requirement.

Recalling that the level of means required by States to bring in the family or certain family members should not be so restrictive as to prevent any family reunion (Conclusions XIII-1, Netherlands), the Committee finds that the threshold in income is manifestly too high and is an undue hindrance to family reunion. Therefore, it concludes that the situation is not in conformity with Article 19§6 of the Charter.

In the previous conclusion (Conclusions XX-4 (2019)), the Committee took note from the 2015 MIPEX report that sponsors must be able to pay the developed world's highest fees (£956) to reunite with their family. The Committee asked the next report to clarify what fees are applicable for a family reunion and whether those lacking means can receive necessary support.

In reply, the report refers to the official website of the United Kingdom government providing information on immigration and nationality fees as of April 2022 (outside the reference period) (www.gov.uk). The Committee observes an increase in the applicable fees between 2021 and 2022(outside the reference period). The Committee notes from the Home Office's webpage that the applicable fee for joining partner, parent civil partner or child is £ 1,846, for adult dependent relative, it is £ 3,250 and it is free of charge concerning dependent children under the age of 21.

The report further states that a fee waiver is available to qualifying applicants. A fee waiver will be granted if the applicant and sponsor demonstrate that they cannot afford the fee or that their income is not sufficient to meet their child's needs.

In addition to the provision of fee waivers, the Home Office recognises the need to assist some of the more vulnerable members of the society and the rules provide for exceptions to the need to pay application fees in a number of specific circumstances, for example, in relation to refugees and persons deriving rights under European law, and wider government policy (such as the protection of spouses from domestic abuse and the protection of vulnerable children).

According to the report, concerning the Isle of Man, application for entry clearance as a parent, grandparent or other dependent relative of a person present and settled in the Isle of Man is £ 3,250. The UK Secretary of State may, pursuant to paragraph 6 of Schedule 9 to the UK's Immigration and Nationality (Fees) Regulations 2018 may waive or reduce an application fee on a discretionary basis.

The Committee notes from a research briefing (No 9859) prepared for the House of Commons (published in October 2023) and from the 2021 report of the Royal Society (UK's national academy of sciences) referred to by the research briefing, that UK immigration costs are much higher than those in many other countries, including Canada, Germany, France and the USA. Moreover, according to these reports, from 2019 to 2021, total immigration costs in the UK increased by up to 43%. Total upfront costs are higher in the UK than all other countries in the analysis.

The Committee takes note that that the applicants can also request a fee waiver: as a partner, parent or dependent child applying based on family life or private life in the UK on human rights grounds. The fundamental requirement for the waiver is to show that the applicant and sponsor cannot afford the fee after meeting their "essential living needs". The Home Office expects detailed evidence of financial circumstances.

In their third-party submissions, the Scottish Human Rights Commission states that in the United Kingdom, the income requirements and visa fees for family reunification are prohibitive. In the absence of more detailed information concerning applicable fees and in the absence of any statistical information indicating the percentage of successful applications concerning fee waiver during the reference period, the Committee considers that the fees applicable in the United Kingdom concerning family reunification are prohibitive and may deprive the right guaranteed under Article 19§6 of its substance (see, Conclusions 2015, Statement of interpretation on Article 19§6).

As to the language requirements for family reunification, the report states that there are no language requirements for family members joining migrant workers. There is only a language requirement at the point a person wishes to remain in the United Kingdom for an indefinite period.

In the previous conclusion (Conclusions XX-4 (2019)), the Committee found that family members of a migrant worker do not have an independent right to stay in the territory after exercising their right to family reunion, as there is a 5- or 10-year delay to settlement for partners, parents and child following the family reunion. With regard to those with status as a dependent of a non-EU migrant worker, the Committee found that the basis of stay of family members is contingent on that worker's presence in the UK. If the worker is removed, their stay will usually be curtailed in line.

In reply, the report states that family members of migrant workers are provided with the right to remain in the United Kingdom for as long as the worker has the right to remain. There is no restriction on their own right to work and children under 16 are provided with access to education. The report also states that family members of a migrant worker are liable to be expelled following a migrant worker's deportation. The Committee understands that the situation has not changed during the reference period. It reiterates its previous conclusion of non-conformity on the ground that family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

In the previous conclusion (Conclusions XX-4 (2019)), the Committee also asked the next report to provide information on the impact of Brexit on the right to a family reunion for migrant workers.

In reply the report indicates that workers and self-employed persons, including frontier workers are guaranteed broadly the same rights as they enjoyed before the UK left the EU.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 19§6 of the Charter on the grounds that:

- social benefits are excluded from the calculation of the income of a migrant worker who has applied for family reunion;

- the level of means required to bring in the family or certain family members are so restrictive as to prevent family reunion;
- the fees applicable in the United Kingdom concerning family reunification are prohibitive and may deprive the right guaranteed under Article 19§6 of its substance;
- the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 7 - Equality regarding legal proceedings

The Committee takes note of the information contained in the report submitted by the United Kingdom

The Committee points out that no targeted questions were asked in relation to Article 19§7 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee found the situation in the United Kingdom to be in conformity with Article 19§7 of the Charter without raising any specific question.

Since no targeted questions were asked under Article 19§7, and the previous conclusion found the situation in the United Kingdom to be in conformity with the Charter without requesting any information, there was no examination of the situation in 2023.

Conclusion

The Committee concludes that the situation in United Kingdom is in conformity with Article 19§7 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 8 - Guarantees concerning deportation

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

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

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee, pending receipt of the information requested, deferred its conclusions. In the present conclusion, the assessment of the Committee will therefore concern the information provided in response to the previous questions raised by the Committee.

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee took note that the main types of cases where leave to remain in the UK may be refused are those that involve criminality, a threat to national security, war crimes, travel bans or threats to immigration control, such a sham marriage. The Committee also took note previously that proportionality case-by-case test is applied taking into account a wide range of circumstances, including those pertaining to human rights.

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee therefore asked the next report to confirm explicitly that:

- deportation may be ordered under the amended legal framework only in case of substantive threat to national security, public interest or morality and/or conviction for serious criminal offence;
- deportation may not be ordered for risk to public health nor for dependence on social assistance;
- family members of a migrant worker are liable to be expelled following a migrant worker’s deportation.

The Committee previously considered that if the requested information is not provided in the next report, there would be nothing to establish that the situation in the UK is in conformity with Article 19§8 of the Charter.

Concerning the third question, the Committee recalls that in its Statement of Interpretation on Article 19§6 and 19§8 (Conclusions 2015), the Committee considered that upon a proper construction of the text of the Charter, the possibility of the expulsion of the family members of a migrant worker is more properly dealt with under Article 19§6 on the facilitation of family reunion, rather than under Article 19§8 which concerns only the expulsion of a migrant worker. It therefore decided to assess whether the expulsion of family members of a migrant worker is in conformity with the Charter under Article 19§6. The Committee’s assessment in the present conclusion will therefore concern the first two questions above previously raised by the Committee.

In reply, the report states that any foreign national who is convicted of a crime and given a prison sentence is considered for deportation at the earliest opportunity. Under the UK Borders Act 2007, a deportation order must be made where a foreign national has been convicted of an offence and received a custodial sentence of at least 12 months. This is subject to several exceptions, including where to do so would breach a person’s ECHR rights or the UK’s obligations under the Refugee Convention. According to the report, those with a sentence below 12 months are deported where it is conducive to the public good under the Immigration Act 1971.

According to the report, the 2014 Immigration Act sets out the approach a court or tribunal is required to take when considering whether deportation would breach Article 8 ECHR. The courts are therefore obliged to assess whether an interference with a person's right to respect for private and family life is justified under Article 8 ECHR. The report also states that an Article 8 ECHR claim from a foreign criminal who has not been sentenced to at least 4 years' imprisonment will succeed if the requirements of an exception to deportation are met. Concerning foreign criminal who has been sentenced more than 4 years imprisonment, Article 8 ECHR claim can only succeed where there are very compelling circumstances over and above the circumstances described in the exceptions to deportation under the Immigration Act.

The Committee understands, on the basis of the information provided in the report, that deportation order must be made where a foreign national has been convicted of an offence and received a custodial sentence of at least 12 months. However, the courts are under an obligation to consider the foreigners' rights under Article 8 ECHR. In case the foreigner is sentenced to less than 4 years imprisonment, then in most cases their claim under Article 8 ECHR will succeed. If the prison term in this respect is more than 4 years, then Article 8 claim can succeed if there are compelling circumstances.

The Committee recalls that the presence in the territory of a state of a person who has committed a criminal offence does not in itself endanger national security or offend against public interest. It is only where there are other elements indicating a real and serious danger that deportation may be justified under Article 19§8 of the Charter (see for instance, Conclusions XV-1 - Germany - Article 19§8 (2001)). The Committee observes that although the courts have an obligation under the Immigration Act to consider each expulsion case in the light of Article 8 ECHR (at least for foreigners who were sentenced to less than 4 years imprisonment), it also observes that the authorities take the decision to expel without examining in each case whether the presence of the foreigner in the territory of the United Kingdom constitutes a danger to national security or offends against public interest as required under Article 19§8. Consequently, the Committee holds that the ground of expulsion based solely on the length of prison sentence (12 months) goes beyond the grounds for expulsion admitted by Article 19§8 of the Charter.

As to the second question of the Committee (§5 above), the report states that deportation is not made on grounds of public health or on grounds of dependence on social assistance.

As to the Committee's previous question as to the Brexit's impact on deportation cases, the report indicates that the UK has passed legislation to preserve the rights of persons protected by the European Union Withdrawal Agreement, the European Economic Area European Free Trade Association Separation Agreement or the Swiss Citizens' Rights Agreement, or by the United Kingdom's implementation of these Agreements.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 19§8 of the 1961 Charter on the ground that the ground of expulsion based solely on the length of prison sentence (12 months) goes beyond the grounds for expulsion permitted by Article 19§8 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 9 - Transfer of earnings and savings

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

The Committee points out that no targeted questions were asked in relation to Article 19§9 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee, pending receipt of the information requested, deferred its conclusions. The assessment of the Committee will therefore concern the information provided in response to its previous questions.

In the previous conclusion (Conclusions XXI-4 (2019)), the Committee asked whether there were any restrictions on the right to transfer movable property of migrant workers. It also considered that if the next report does not provide comprehensive information in this respect, there would be nothing to show that the situation is in conformity with the Charter in this respect.

In reply, the report indicates that the UK Government offers a Transfer of Residence relief, which allows relief from UK import duties on personal belongings and household goods, when a person is transferring their normal place of residence to the UK. To benefit from this relief, claimants should first get approval from Revenue and Customs to claim the relief. They must meet the conditions of the relief including:- that the individual must have been normally resident outside the UK for at least 12 consecutive months prior to the date the UK becomes their new normal place of residence;- for goods brought under the relief, the individual must have possessed those goods for at least 6 months prior to the date they stop being normally resident outside the UK;- that the goods moving under the relief should have the same intended use in the UK as they would have if they were used outside the UK.

According to the report, certain conditions of the relief can be waived in exceptional circumstances, which should be evidenced at the time of application. Goods can be imported in multiple consignments, but all goods must be imported within 12 months of the date the UK became the claimant’s normal place of residence. Any goods brought under Transfer of Residence relief cannot be lent, used as security, hired out or transferred within 12 months of the date the goods were imported, without the approval of the Revenue and Customs.

Conclusion

The Committee concludes that the situation in the United Kingdom is in conformity with Article 19§9 of the 1961 Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 10 - Equal treatment for the self-employed

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

On the basis of the information in the report the Committee notes that there continues to be no discrimination in law between migrant employees and self-employed migrants in respect of the rights guaranteed by Article 19.

However, in the case of Article 19§10, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.

The Committee has found the situation in the United Kingdom not to be in conformity with Articles 19§6 and 19§8 of the Charter. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in the United Kingdom is not in conformity with Article 19§10 of the Charter.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§6 and 19§8 apply also to self-employed migrants.