



European  
Social  
Charter

Charte  
sociale  
européenne



Strasbourg, 31 January 2019

GC(2018)24

## EUROPEAN SOCIAL CHARTER

## GOVERNMENTAL COMMITTEE

### REPORT CONCERNING CONCLUSIONS 2017 OF THE EUROPEAN SOCIAL CHARTER (revised)

**(Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine)**

*Detailed report of the Governmental Committee  
established by Article 27, paragraph 3, of the European Social Charter<sup>1</sup>*

*Written information submitted by States on Conclusions of non-conformity is the responsibility of the States concerned and was not examined by the Governmental Committee. This information remains either in English or French, as provided by the States.*

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<sup>1</sup> The detailed report and the abridged report are available on [www.coe.int/socialcharter](http://www.coe.int/socialcharter).

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## I. Introduction

1. This report is submitted by the Governmental Committee of the European Social Charter and the European Code of Social Security (hereafter “The Governmental Committee”) made up of delegates of each of the forty-three states bound by the European Social Charter or the European Social Charter (revised)<sup>2</sup>. The Representative of the European Trade Union Confederation (ETUC) attended the meetings of the Governmental Committee in a consultative capacity. The representative of the International Organization of Employers (IOE), also invited to participate in the work in a consultative capacity, declined the invitation.

2. Since a decision of the Ministers’ Deputies in December 1998, the other signatory states were also invited to attend the meetings of the Governmental Committee (Liechtenstein, Monaco, San Marino and Switzerland).

3. The supervision of the application of the European Social Charter is based on an examination of the national reports submitted at regular intervals by the States Parties. According to Article 23 of the Charter, the Party “shall communicate copies of its reports [...] to such of its national organisations as are members of the international organisations of employers and trade unions”. Reports are made public on [www.coe.int/socialcharter](http://www.coe.int/socialcharter).

4. Responsibility for the examination of state compliance with the Charter lies with the European Committee of Social Rights (Article 25 of the Charter), whose decisions are set out in a volume of “Conclusions”. On the basis of these conclusions and its oral examination, during the meetings, of the follow-up given by the States, the Governmental Committee (Article 27 of the Charter) draws up a report to the Committee of Ministers which may “make to each Contracting Party any necessary recommendations” (Article 29 of the Charter).

5. In accordance with Article 21 of the Charter, the national reports to be submitted in application of the European Social Charter concerned Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Slovenia, Sweden, “the former Yugoslav republic of Macedonia”, Turkey and Ukraine. Reports were due by 31 October 2016. The Governmental Committee recalls that it attaches a great importance to the respect of the deadline by the States Parties.

6. Conclusions 2017 of the European Committee of Social Rights were adopted in December 2017 (Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, Portugal,

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<sup>2</sup> List of the States Parties on 1 December 2018: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, “the former Yugoslav republic of Macedonia”, Turkey and Ukraine).

7. The Governmental Committee took note that no further ratification has been done in the last reporting cycle.

8. The Governmental Committee held two meetings in 2018 (137th Meeting on 23-27 April 2018, 138th Meeting on 24-28 September 2018) with Mr Joseph Faber (Luxembourg) in the Chair. In accordance with its Rules of Procedure, the Governmental Committee at its autumn meeting elected for a one year term (until 31st December 2019) a new member of the Bureau, Ms Brigita VERNEROVA (Czech Republic) to replace Ms Odete SEVERINO (Portugal, 2nd Vice-Chair) who resigned. The GC elected also Ms Cristel VAN TILBURG (Netherlands) as a 2nd Vice-Chair.

9. The Governmental Committee prepared a message to be delivered to the Committee of Ministers as a contribution to the celebration of the 70th Anniversary of the Council of Europe in 2019 (see in Appendix VII).

10. The state of signatures and ratifications on 1 December 2018 appears in Appendix II to the present report.

## **II. Examination of Conclusions 2017 of the European Committee of Social Rights**

11. The abridged report for the Committee of Ministers only contains summaries of discussions concerning national situations in the eventuality that the Governmental Committee proposes that the Committee of Ministers adopt a recommendation or renew a recommendation. No such proposals were made in the current supervisory cycle. The detailed report is available on [www.coe.int/socialcharter](http://www.coe.int/socialcharter).

12. The Governmental Committee applied the rules of procedure adopted at its 134th meeting (26 – 30 September 2016). According to the decision taken by the Committee of Ministers at its 1196th meeting on 2 April 2014, the Governmental Committee debated orally only the Conclusions of non-conformity as selected by the European Committee of Social Rights.

13. The Governmental Committee examined the situations not in conformity with the European Social Charter listed in Appendix III to the present report. The detailed report which may be consulted at [www.coe.int/socialcharter](http://www.coe.int/socialcharter) contains more extensive information regarding the cases of non-conformity.

14. The Governmental Committee also took note of the Conclusions deferred for lack of information or because of questions asked for the first time, and invited the States concerned to supply the relevant information in the next report (see Appendix IV to the present report for a list of these Conclusions).

15. During its examination, the Governmental Committee took note also of important positive developments in several State Parties (see Appendix V).

16. The Governmental Committee asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous Recommendations adopted by the Committee of Ministers. It adopted the warnings set out in Appendix VI to this report.

17. The Governmental Committee was informed of the 2017 findings of the European Committee of Social Rights on the follow-up to decisions on collective complaints with respect to 5 States (Netherlands, Sweden, Norway, Slovenia and Cyprus) concerned a total of 8 decisions on the merits. After an exchange of views the Governmental Committee welcomed the 2017 findings and agreed that reflection should continue with the European Committee of Social Rights with a view to improving the reporting system.

18. The Governmental Committee proposed to the Committee of Ministers to adopt the following Resolution:

**Resolution on the implementation of the European Social Charter during the period 2012-2015 (Conclusions 2017), provisions related to the thematic group “Health, social security and social protection”**

*(Adopted by the Committee of Ministers on ....  
at the .... meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>3</sup>

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, “the former Yugoslav republic of Macedonia”, Turkey and Ukraine;

Considering Conclusions 2017 of the European Committee of Social Rights appointed under Article 25 of the Charter;

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<sup>3</sup> At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are (1 December 2016):

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2017 of the European Committee of Social Rights and in the report of the Governmental Committee.

### **III. Examination by article<sup>4</sup>**

#### **REVISED EUROPEAN SOCIAL CHARTER**

#### **Article 3 – The right to safe and healthy working conditions**

#### **Art. 3.1 ESC = Art. 3.2 RESC - Safety and health regulations**

19. The Secretariat presents the main criteria used by the European Committee of Social Rights to assess compliance with Article 3§2 of the Charter, which also apply to Article 3§1 of the 1961 Charter.

20. The right of every worker to a safe and healthy working environment is a “widely recognised principle, stemming directly from the right to personal integrity, one of the fundamental principles of human rights”. The purpose of Article 3 is thus directly related to that of Article 2 of the European Convention on Human Rights, which recognises the right to life. It applies to the whole economy, covering both the public and private sectors.

21. As regards Article 3§2 of the Charter (3§1 of the 1961 Charter), the determination and implementation of an occupational safety and health policy must be based on a precise legal framework.

#### **22. Risks that must be covered by the legal framework**

23. States Parties’ first obligation under Article 3 is to ensure the right to safe and healthy working standards of the highest possible level. Under §2, this obligation entails issuing safety and health regulations providing for preventive and protective measures against workplace risks recognised by the scientific community and laid down in Community and international regulations and standards.

24. The Charter does not actually define the risks to be regulated. Supervision takes an indirect form, referring to international technical occupational health and safety standards such as the ILO Conventions and European Union Directives on health and safety at work.

25. Domestic law must include framework legislation – often the Labour Code – setting out employers’ responsibilities and the workers’ rights and duties as well as specific regulations. In view of the particularly variable nature of the subject matter in the light of technological, ergonomic and medical advances, existing regulations

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<sup>4</sup> State Parties in English alphabetic order.

must be geared to new circumstances where the rules prove to be out of keeping with the situation.

26. During its examination, the ECSR is based on the catalog of risks which contains 4 groups of risks:

I. Psychosocial risks

The legal framework should cover work-related stress, aggression and violence.

II. Establishment, alteration and upkeep of workplaces — Work equipment

- workplaces and equipment, particularly the protection of machines, manual handling of loads, work with display screen equipment;
- hygiene (shops and offices);
- maximum weight;
- air pollution, noise and vibration; personal protective equipment; safety and/or health signs at work.

III. Hazardous agents and substances

- chemical, physical and biological agents, particularly carcinogens, including: white lead (in paint), benzene, asbestos, vinyl chloride monomer, metallic lead and its ionic compounds and ionizing radiation;
- control of major accident hazards involving dangerous substances.

IV. Sectoral risks

- indication of weight on packages to be transported by boat;
- protection of dockers against accidents;
- dock handling;
- building safety rules, temporary or mobile construction sites;
- mines, extractive industries using drilling and opencast or underground mining;
- ships and fishing vessels;
- prevention of major industrial accidents;
- agriculture;
- transport.

27. The ECSR also examines levels of prevention and protection.

28. Limits must be aligned with those adopted in the above-mentioned international reference standards.

29. A State Party has satisfied this general requirement if it has transposed most of the *acquis communautaire* on occupational safety and health into its domestic legislation.

30. In sectors of activity in which the *acquis* is incomplete, e.g. in shipping or fishing, main international standards are offered by the ILO conventions.

31. The Secretariat recalls that States Parties are required to pay particular attention with regard to asbestos and ionizing radiation, producing evidence that

workers are protected up to a level at least equivalent to that set by international reference standards.

32. With regard to protection against asbestos, the international reference standards, which determine minimum exposure limit values to be implemented at national level, are ILO Asbestos Convention No. 162 (1986), Rotterdam Convention (2004) and Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work, but since it was repelled, Directive 2009/148/EC of the Parliament and the Council of 30 November 2009 that fixes a single limit value for all fibres, reduced to 0.1 fibres/cm<sup>3</sup>. The exposure limit values must be reviewed and updated in light of technological progress and development in technical and scientific knowledge.

33. As for the protection against ionizing radiations, national standards must take account of the recommendations No. 103 made in 2007 by the International Commission on Radiological Protection (ICRP, publication No. 103), relating in particular to maximum doses of exposure in the workplace but also to persons who, although not directly assigned to work in a radioactive environment, may be exposed to radiation occasionally. The transposition into domestic law of Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing some Directives is sufficient as this Directive takes up the ICRP's recommendations. Where applicable, the transposition of legislation complementing Council Directive 2013/59/Euratom in some sectors of activity or some situations, i.e. Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel and Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations are also examined.

34. With regard to the personal scope of laws and regulations, the ESCR stressed that all workers, all workplaces and all sectors of activity must be covered by occupational safety and health regulations.

35. The term "workers" used in Article 3 covers both employed and self-employed persons, especially as the latter are often employed in high-risk sectors. The aim is to ensure that the working environment is safe and healthy for all operators, where necessary by adopting rules adapted to the operators' specific situation.

36. The protection of interim, temporary, seasonal workers and those on fixed-term contracts, without necessarily being specific, must take the exposure to dangerous agents and substances accumulated with several successive employments into account, in order to avoid any discrimination in respect of occupational safety and health with permanent workers. If needed, regulations must prohibit the hiring of temporary workers for some particularly dangerous activities. In this regard, the implementation of international reference standards in the field is examined: ILO Fee-charging Employment Agencies Convention No. 96 (1949) and Private Employment Agencies Convention No. 181 (1997); and some EU directives. the ESCR also examines obligations under the regulations benefitting temporary workers on medical checks, on information and training in occupational safety and health matters upon recruitment, transfer or the introduction of new technology, as



well as the representation of these workers in occupational safety and health matters, and even measures adopted to reduce the high incidence of occupational accidents suffered by these workers.

37. The Secretariat specified all economic sectors must be covered by the regulations. It is not necessary for a specific text to be adopted for each activity or sector, but the wording of texts should be sufficiently precise to allow their effective application in all sectors, taking particular account of the scale of or degree of danger in each sector. Sectors must be covered in their entirety and all companies must be covered regardless of the number of employees.

38. No workplace can be “exempted” from the application of health and safety rules. Workers employed on residential premises, i.e. domestic staff and home workers, must therefore be covered but the rules may be adapted to the type of activity and the relatively risk-free nature of these workers’ occupations and be worded in general terms.

39. Independent workers who intervene in several workplaces must suffer no discrimination in occupational safety and health matters, as compared to wage-earning workers or civil servants, and hence must also be covered by the regulations. The duty to provide for regulations goes beyond the prevention, training and medical supervision policies advocated by Council Recommendation 2003/134/EC of 18 February 2003. High figures on independent workers may be a factor to be taken into account.

40. To comply with the provisions of Article 3§2, States Parties must specifically cover most of the risks listed and examine measures taken by public authorities to protect workers against work-related stress, aggression and violence specific to work performed under atypical working relationships, in examining the personal scope of occupational safety and health regulations.

41. Consultation with employers’ and workers’ organisations

42. The Secretariat recalled also that regulations must be drawn up in consultation with employers’ and workers’ organisations.

43. Consultation goes beyond mere tripartite – public authorities, employers’ and workers’ organisations – co-operation in the search for ways to improve the working conditions and environment in general, and includes the co-ordination of their actions and the co-operation in the drafting of laws and regulations at all levels and in all sectors.

44. With regard to the selection of situations for consideration by the Governmental Committee, the Secretariat pointed out that they only concerned findings of non-compliance (other than those for which compliance could not be established for lack of information. ) on the following grounds:

- self-employed workers do not enjoy adequate protection,
- domestic workers are not covered by health and safety at work regulations, and / or

- legislation and regulations relating to health and safety at work do not sufficiently cover the risks encountered in the workplace

45. Representatives of States Parties are invited to provide updated and relevant information on the other grounds of non-compliance in the next report on Article 3§2, in the light of the evaluation criteria outlined above.

### **Article 3 – The right to safe and healthy working conditions**

#### **Art.3.2 RESC Safety and health regulations**

Ground of non-conformity to be examined:

#### **Article 3§2 RESC - Insufficient coverage for self-employed workers by health and safety regulations**

##### **RESC 3§2 ANDORRA**

***The Committee concludes that the situation in Andorra is not in conformity with Article 3§2 of the Charter on the grounds that:***

- *[the health and safety legislation and regulations do not specifically cover a majority of the risks;*
- *the levels of protection against asbestos and ionising radiation are insufficient;]*
- ***self-employed workers are not adequately protected.***

Third ground of non-conformity

46. The Secretariat said that the situation had not been in conformity with the Charter since 2013 for this reason.

47. The representative of Andorra provided information orally and in writing. In particular, regarding the third ground of non-compliance, he supplied the following information:

« [...]»

*En relation avec ce dernier aspect, c'est vrai que notre loi de prévention de risques du travail n'inclut pas à ceux que le Comité européen de Droit Social nomme « travailleurs indépendants », mais chaque fois plus, ceux-ci doivent accomplir tout ce qui établit la loi de prévention, car les entreprises qui sous-traitent des « travailleurs indépendants » doivent coopérer en l'application des dispositions relatives à la sécurité et la santé. Avec ce but, ils doivent coordonner les activités entrepreneuriales pour l'application cohérente des principes généraux de prévention et protection de tous les travailleurs des entreprises correspondantes au centre de travail, en moyennant la correcte application des méthodes de travail, le contrôle des interactions de toutes les activités qui se développent, l'information mutuelle concernant les risques, l'information à ses travailleurs respectifs de toutes les activités qui se développent au centre de travail par toutes les entreprises et l'adéquation des mesures de prévention et protection vers les risques existants.*

[...]»

48. The Chair noted that the situation in Andorra was unchanged.

49. The Governmental Committee urged the Andorran authorities to bring the situation into line with Article 3§2 of the Charter. In the meantime, it decided to await the ECSR's next assessment.

## **RESC 3§2 FRANCE**

***The Committee concludes that the situation in France is not in conformity with Article 3§2 of the Charter on the ground that certain categories of self-employed workers are not sufficiently covered by the occupational health and safety regulations.***

50. The Secretariat said that the situation had not been in conformity with the Charter since 2003 for this reason.

51. The representative of France provided the following information orally and in writing:

*« Les 2,8 millions de travailleurs indépendants que compte notre pays sont une composante essentielle de notre tissu économique, que ce soit en termes de création de richesses, d'emploi ou de dynamisme entrepreneurial.*

*Au titre de ses dispositions générales, il est exact que « le Code du travail, ayant pour objet de régir les rapports entre employeurs et salariés, ne s'applique pas aux travailleurs indépendants. » Cependant, en raison du développement de cette forme de travail et de la participation de ces travailleurs à des activités soumises à des risques particuliers, le législateur les a progressivement inclus dans le champ d'application d'un grand nombre de règles en matière d'hygiène et de sécurité. Ainsi, au titre de l'article L. 4535-1 du Code du travail (et R.4535-1 à 10), les travailleurs indépendants exerçant directement une activité sur un chantier de bâtiment ou de génie civil doivent assurer leur sécurité et celle des autres personnes en se conformant à un grand nombre de règles d'hygiène et de sécurité fixées par le Code du travail, comme certains principes généraux de prévention (article L.4121-2 al 1°2°3°5°6°) ; les règles d'utilisation des équipements de travail et de protection individuelle (conformité, vérifications, formations...) ; les règles relatives au travail en hauteur ; les règles relatives à la conduite des équipements de travail mobiles automoteurs et aux équipements de travail de levage ; les règles de prévention du risque chimique.*

*De plus, la protection des travailleurs indépendants contre certains risques a été prise en compte lorsqu'ils exécutent certaines activités particulièrement dangereuses, autres que le bâtiment et le génie civil. Lorsque la fabrication, la vente, l'importation ou la cession de produits chimiques sont limitées ou interdites, le travailleur indépendant est tenu de s'y conformer (article L. 4411-1) ; en tant qu'utilisateurs de produits chimiques les travailleurs indépendants doivent recevoir de leurs fournisseurs les fiches de données de sécurité des produits (article R.4411-73) et en tant que fabricants les étiqueter (article L.4411-6) ; l'article L. 4451-1 étend aux travailleurs indépendants les règles de prévention des risques d'exposition aux rayonnements ionisants.*

*Enfin, le code rural et de la pêche maritime prévoit depuis le 1er mai 2008 que les travailleurs indépendants exerçant des travaux forestiers ou des travaux en hauteur dans les arbres, quel que soit leur régime social (RSI ou régime agricole), doivent respecter les prescriptions minimales de santé et sécurité au travail par renvoi à celles fixées par le code du travail pour les employeurs vis-à-vis de leur salariés. Ainsi quel que soit la situation de*

*travail, seul ou en co-activité avec d'autres entreprises, avec ou sans salariés, ils doivent respecter ces règles. C'est à l'identique de ceux qui travaillent sur un chantier du BTP.*

*Le non-respect de ces dispositions est sanctionné pénalement par l'inspection du travail, comme celles ci-dessous.*

*Le code rural et de la pêche maritime prévoit également depuis 2015 que les travailleurs indépendants exerçant une activité agricole (culture, élevage, travaux agricoles, pisciculture...) doivent respecter les prescriptions minimales de santé et sécurité au travail par renvoi à celles du code du travail pour les employeurs vis-à-vis de leur salariés, lorsqu'ils sont amenés à travailler avec des salariés d'une autre entreprise sur un même lieu de travail.*

*Dans le cadre du Plan Santé au Travail n°3 (2016-2020), l'objectif est de donner un nouveau souffle à la politique de santé au travail et de favoriser l'appropriation par tous les acteurs d'une culture de prévention. Ainsi, plusieurs actions vont concourir à renforcer la protection des travailleurs indépendants sur des risques identifiés comme prioritaires (risques «classiques» avec chutes de hauteur et de plain-pied, risque chimique, risque routier professionnel et aussi risques émergents avec les perturbateurs endocriniens, les nanomatériaux) ; à titre d'illustration, dans le cadre de l'action 1.15 du PST 3 « Renforcer la conception des chantiers en sécurité en impliquant l'ensemble des acteurs », il est prévu de renforcer l'efficacité du dispositif de coordination en matière de sécurité et de protection de la santé et d'améliorer les solutions techniques à mettre en œuvre sur les chantiers de second œuvre. Ces actions vont dans le sens d'une protection accrue des travailleurs indépendants au même titre que les autres travailleurs. »*

52. The Chair asked whether this information differed from that presented in the report.

53. The representative of France said that the information concerned on-going activities and it was therefore difficult to break it down, particularly regarding the building and civil engineering sectors.

54. The representative of Ukraine suggested that the Governmental Committee should take note of the information supplied and invite the French Government to bring the situation into line with Article 3§2 of the Charter.

55. The ETUC representative noted that only some branches were covered for certain types of risk and asked for confirmation that that the Labour Code was indeed the relevant legal basis.

56. The representative of France confirmed that the Labour Code was the relevant legal basis. The Labour Code was also the reference point regarding risk prevention measures for self-employed workers. The rural and maritime fishing code also referred to the Labour Code. The most recent occupational health plan had come into operation in 2016 and would remain in force until 2020.

57. The Governmental Committee noted the information it had received concerning the gradual extension of protective measures for various risks to self-employed workers and invited the French Government to bring the situation into line with Article 3§2 of the Charter.

## RESC 3§2 HUNGARY

**The Committee concludes that the situation in Hungary is not in conformity with Article 3§2 of the Charter on the ground that self-employed and domestic workers as well as other categories of workers are not protected by occupational health and safety regulations.**

58. The Secretariat said that the situation had not been in conformity with the Charter since 2013 for this reason.

59. The representative of Hungary provided the following information orally and in writing:

*« In Hungary, the Act XCIII of 1993 on Labour Safety lays down the detailed rules on the provision of personal, material and organizational conditions for occupational safety and health in the interest of protecting the health and ability of persons to work in organized employment circumstances, thus improving their working conditions, and preventing the occurrence of accidents at work and occupational diseases. To this end, the Labour Safety Act clearly defines the tasks, rights and obligations of the State, the employers and the employees regarding the workplace.*

*In accordance with the explanatory provisions (Section 87 Point 5) of the Labour Safety Act, workplace shall mean all outdoor or confined spaces (including underground facilities and vehicles) where employees are situated for the purpose of or in connection with the performance of work. The place of work of a private entrepreneur/self-employed person who carries out all work-related activities exclusively by him/herself and who does not employ any other persons shall also be determined as a workplace.*

*In order to ensure that all persons working benefit from the right to health and safety at work, the Labour Safety Act stipulates (Section 84 Paragraph 1) that the occupational safety and health authority shall be empowered to conduct inspections at any workplaces, without a special permit.*

*Regarding the atypical forms of employment, especially in case of teleworking, the Labour Safety Act stipulates (Section 86/A Paragraph 7) that the occupational safety and health authority shall conduct the inspection only on workdays, between 8 a.m. and 8 p.m., thus guaranteeing the respect for private and family life and private homes. The occupational safety and health administration shall notify the employer and the employee at least three working days in advance concerning the inspection. The employer shall obtain the employee's consent for admission into the designated place of work for this purpose before the commencement of the inspection.*

*In accordance with the above, the Act LXXV of 1996 on labour inspection defines the competence of the labour authority with regard to all workplaces. Having regard to the principle of private homes' protection the labour inspection shall not extend to the private homes and the place of residence of employees carrying out telework and outwork. Equally, labour inspection shall not be carried out in the home of private employers either. However, labour right claims regarding the labour inspection in these cases can be enforced by law in accordance with Act I of 2012 on the Labour Code. »*

60. The Chair asked whether this meant that domestic and self-employed workers were covered for occupational health and safety.

61. The representative of Hungary said they were covered if they benefited from an organised form of employment.

62. The Chair asked what constituted structured and organised employment.

63. The representative of Hungary said that this entailed a legal employment relationship.

64. The representative of the Netherlands quoted the ECSR's conclusion on this point: "organised work is described as work performed within the framework of an employment relationship and does not include, inter alia, work in the household of a natural person employer within the framework of simplified employment, public employment, government service, judges' service relationship, judicial staff's service relationship, prosecution service relationship, work at vocational training institutes by students during the fulfilment of vocational training requirements in, work performed as convict or other detainee". The situation probably arose from the fact that there were certain types of organised work in which self-employed workers were involved and were not therefore covered by the occupational health and safety regulations.

65. The representative of Hungary specified that everybody employed in organised work for certain circumstances is covered by the Occupational Health and Safety Act. Only people who are self-employed and carry out all worker activity along and do not employ someone else are not explicitly covered by this Act, but Act on Labour Inspection covers such people. They can be checked whether they ensure for themselves the necessary protective services. As regards the domestic workers, only a very small group of people is excluded from the scope of the Occupational Health and Safety Act. She refers to the national report which states that "organised work means a work performed within the framework of employment relationship – not including work in the household of a natural person employer within the framework of simplified employment". This means that people who are employed in simplified employment are not allowed to work for the same employer more than 5 consecutive days. So, these people, they are not be checked; they employed for a household of a natural person and this kind of employment must be registered. Even if this kind of employment is not registered, all employers and employees can be found by the Labour Inspectorate. She stressed that only a very few people are excluded from the direct scope of the Labour Inspection Act. From the 01.07.2017, the scope of the Occupational Health and Safety Act has been extended to employment relationship covering those who are employed in formal employment relationship. She specifies that individuals and entrepreneurs or self-employed persons must ensure occupational safety and health only for those belonging to working area.

66. The ETUC representative asked for more details on simplified working hours.

67. The representative of Hungary answered that the total term cannot exceed 15 days per months and cannot exceed 5 consecutive days. Someone can employed in simplified employment for 5 days in a week, irrespective of the week days or weekend, then he/she has to leave that employer but can be reemployed by the same employer for 5 consecutive days, however he/she cannot work more than 15 days in one month.

68. The Chair asked what happened in the event of an accident involving this type of employee, for example in domestic work.

69. The representative of Hungary could not answer this question.

70. The representative of Greece asked for clarification on whether there is the Occupational Health and Safety Act which doesn't cover this group of workers under discussion, but all of them are covered by the Labour Inspection Act; whether a labour inspector can check for domestic workers, the manner in which they are employed. She wondered if Hungary is not in conformity with the Charter because one of the Acts is not clear as to whether it covers everything or because actually the workers are not covered in any manner.

71. The Chair asked what was the exact meaning of the term "domestic work" as it applied in Hungary.

72. The representative of Hungary explained that according to the Hungarian legislation a domestic worker can mean only a person who meets the personal needs of natural person or his/her relatives (people working in the garden are totally excluded, only those who are provided personal care can belong to this very small group of persons). She specified that, according to relevant provisions of the Act, work in the household of the natural person means the work aiming at meeting everyday life needs of person employing the person concerned or his/her relatives.

73. The representative of Greece invited Hungary to provide clear and precise information in its next report.

74. The ETUC representative proposed a vote on a warning.

75. The Governmental Committee voted on whether to address a recommendation, which was rejected (0 votes for). It then voted on whether to address a warning, which was adopted (33 votes for, 1 against and 7 abstentions). It noted the information received and invited the Government of Hungary to provide clear and precise information in the next report. It also asked the Hungarian authorities to bring the situation into line with Article 3§2 of the Charter.

## **RESC 3§2 REPUBLIC OF MOLDOVA**

***The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 3§2 of the Charter on the grounds that:***

- *[it has not been established that levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces are in line with the level set by international reference standards;]*
- ***self-employed workers are not covered by occupational health and safety legislation.***

## Second ground of non-conformity

76. The Secretariat said that the situation had not been in conformity with the Charter since 2013 for this reason.

77. The representative of Moldova provided information orally and in writing. In particular, regarding the second reason for non-compliance, he supplied the following information:

« [...] »

*Regarding the activity of self-employed workers, Moldova informs that the national legislation has not been modified and amended to regulate the work of these persons in the field of health and safety at work. They are going to put this issue in public policy agenda for the next period of time. »*

78. The ETUC representative asked what was the precise timescale of the next political period referred to and what this commitment entailed.

79. The representative of Moldova said that legislation on the situation of self-employed workers was currently being drawn up and that a draft law on the subject would be tabled this year or early next year.

80. The Chair asked for confirmation that Moldova was currently preparing new legislation for self-employed workers.

81. The representative of Moldova said that taking into consideration the political context, this measure is postponed for the after-election period. The Parliamentary Election in Moldova will take place at the end of 2018.

82. The Governmental Committee noted the information received and invited the Government of the Republic of Moldova to bring the situation into line with Article 3§2 of the Charter.

## **RESC 3§2 ROMANIA**

***The Committee concludes that the situation in Romania is not in conformity with Article 3§2 of the Charter on the ground that domestic workers are not covered by occupational health and safety regulations.***

83. The Romanian representative stated that domestic workers are exempt from the provisions of Law no. 319/2006, since this category of workers is not covered by the provisions of the Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work. However she further stated that individuals employing housekeepers or nannies have the legal obligation to conclude an individual labour contract with the employees. By concluding an individual labour contract, automatically these employees are covered by the security and safety at work legislation.

84. Many representatives stated that they found the information provided confusing. The Secretariat informed the Committee that this was not a new finding of non-conformity, and that the ECSR had always interpreted Article 5 of Law



No.319/2006, as excluding domestic workers from the scope of the legislation on health and safety. Romanian reports on Article 3 seem to confirm this.

85. The Committee invited the Government to provide complete and accurate information on the situation in the next report, in particular does Article 5 of the law of 319/2006 exclude domestic workers from its scope and if so is there other legislation which guarantees their health and safety at work and how is it monitored in practice? Meanwhile it decided to await the next assessment of the ECSR.

## **RESC 3§2 UKRAINE**

***The Committee concludes that the situation in Ukraine is not in conformity with Article 3§2 of the Charter on the ground that the coverage of occupational hazards by specific occupational health and safety legislation and regulations is insufficient.***

86. The Secretariat said that the situation had not been in conformity with the Charter since 2013 for this reason.

87. The representative of Ukraine provided the following information orally and in writing:

*«In March 2017 the State Sanitary Norms and Rules on safety and health of workers against harmful effects of asbestos and materials asbestos-containing products were approved by the Order of the Ministry of Health of Ukraine.*

*This Order establishes the requirements for the prevention of risks associated with the exposure of workers to asbestos at their workplace, including asbestos dust or dust from asbestos-containing materials and products that can cause harmful effects to their health.*

*Moreover, the State Labour Service of Ukraine (Labour Inspection) has drafted a Concept on National System for the prevention of occupational risks to ensure the effective exercise of the right of all workers to safe and healthy working conditions. The Concept is a framework document that establishes the context, vision, principles, objectives and main directions of the occupational safety and health activity in Ukraine based on a risk-based approach to ensure the implementation of the European standards.*

*The Concept takes into account, inter alia, Article 3 of the European Social Charter Revised. »*

88. The Governmental Committee noted the information received and asked the Government of Ukraine to provide the necessary information in the next report.

## **Article 3 – The right to safe and healthy working conditions**

### **Art. 3.2 ESC = Art. 3.3 RESC – Enforcement of safety and health regulations**

89. The Secretariat presented the main criteria used by the European Committee of Social Rights to assess compliance with Article 3§3 of the Charter, which also applied to Article 3§2 of the 1961 Charter.

90. The aim of Article 3§3 is to guarantee the effective implementation of the right to safety and health at work. This implies monitoring development of the number of

injuries at work and occupational diseases, checking the application of regulations and consulting employers' and workers' organisations on this subject.

91. The enforcement of safety and health regulations by measures of supervision is carried out in light of Part III Article A§4 of the Charter, whereby States Parties shall maintain a system of labour inspection appropriate to national conditions. IN particular, States Parties must:

- take measures to address increasingly complex and multidimensional demands on the competence, resources and institutional capacity of labour inspection systems;
- implement measures to focus labour inspection on small and medium-sized enterprises (SMEs).

92. With regards to the occupational injuries and diseases, the Secretariat recalled that frequency and trends in occupational injuries are decisive in assessing the effective implementation of the rights set out in Article 3§3. In this regard, the number of all occupational accidents is monitored (accidents excluding road traffic accidents with more than three days' absence) and the number of such accidents in relation to the number of workers employed in each economic sector (standardized incidence rate per 100 000 workers defined by EUROSTAT which takes into account the relative importance of different sectors of employment in the country's economy). Monitoring covers total accidents in all sectors, some sectors, or some types of workers. The situation is considered incompatible with the Charter where, for several years, this frequency is clearly too high for it to be maintained that the right to health and safety at work is being effectively secured. This assessment can be made on the basis of absolute figures or in relation to the average in the States Parties to the Charter.

93. The Secretariat recalled that the ESCR applies the same approach to the number of fatal occupational accidents and to their standardized incidence rate. A high fatal accident rate indicates that measures taken to reduce fatal accidents are inadequate and the situation is therefore not in conformity with the Charter.

94. The simple incidence rate represented the ratio between (1) the number of fatal and non-fatal accidents in a given year, by country, sector, sex, age group or other category, and (2) the corresponding total number of persons concerned (the reference population), multiplied by 100 000. It thus linked the number of accidents and the number of persons occupied in the category concerned. When the ECSR compared the data for different countries, simple incidence rates could be difficult to interpret. Standardised incidence rates therefore offered a more neutral basis for comparing the health and safety situation in the various countries.

95. The Secretariat reminded parties that they must provide information on the incidence rates of the main occupational diseases given the systematic lack or incompleteness of information in the national reports. In its most recent round of examinations, the ECSR had decided to ask a relatively general question about occupational diseases, having regard to Commission Recommendation

2003/670/EC of 19 September 2003 concerning the European schedule of occupational diseases, ILO Recommendation 194 concerning the list of occupational diseases and the recording and notification of occupational accidents and diseases and the new list of occupational diseases approved by the ILO Governing Board on 25 March 2010, which included a range of internationally recognised occupational diseases, from illnesses caused by chemical, physical and biological agents to respiratory and skin diseases, musculoskeletal disorders and occupational cancer.

96. States Parties must provide information on incidence rates of major occupational diseases, although no criteria have been developed as of yet for assessing the conformity of different levels of incidence rates for these diseases.

97. The collection and presentation of data on occupational accidents and diseases must be reliable and exhaustive [and be] in accordance with accepted statistical methods. States Parties must take measures to combat possible non-reporting and/or concealment of accidents and diseases. An ineffective or failing system of reporting of accidents and diseases may lead to a finding of non-conformity.

98. Enforcement of laws and regulations by the labour inspectorate

99. The Secretariat recalled that the proper application of the Charter “cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised.” Monitoring of compliance with laws and regulations on occupational safety and health, including coercive measures (prevention is dealt with under Article 3§1, above), is a prerequisite for the right guaranteed by Article 3 to be effective.

*i. Organisation and jurisdiction*

100. Article 3§3 does not prescribe any standard model for the organisation of labour inspection as article A§4 of Part III refers to a system “appropriate to national conditions”. Labour inspection services may be divided between several bodies having specialised jurisdiction. The excessive divide of services between several monitoring bodies that work under a lack of resources and imperfect co-operation may, however, deprives labour inspection of its efficiency.

*ii. Activities and means*

101. States Parties must allocate them enough resources to enable them to conduct “a minimum number of regular inspections to ensure that the largest possible number of workers benefit from the right enshrined in Article 3” and that the risk of accidents is reduced to a minimum. In examining the resources allocated takes account of:

- the number and frequency of inspection visits on occupational safety and health conducted by labour inspection services;
- the number of enterprises subject to inspection visits by sector of activity;

- the number and percentage of workers covered by inspection visits in each sector of activity, this information being broken down as possible by sex and age of the workers;
- the number of staff employed in labour inspectorates on occupational safety and health for each sector of activity; Article 3§3 is violated when the staffing of the inspection services and the number of visits carried out is manifestly inadequate for the number of employees concerned.
- the measures taken with a view to maintaining the professional capability of inspectors, taking account of technological and legal developments,
- where appropriate, general reports from the central inspection authorities, including those they periodically communicate to the ILO.

102. Inspectors must be entitled to inspect all workplaces, including residential premises, in all economic sectors, private as public. They must also have sufficient and appropriate means of information and powers of investigation and enforcement, in particular powers to take emergency measures where they notice an immediate danger to the health or safety of workers.

### *iii. Measures and sanctions*

103. The system of penalties in the event of breaches of the regulations must be efficient and dissuasive. The situation will be examined in the light of:

- the number of offences recorded in relation to the number of penalties imposed;
- the frequency of offences in relation to the severity of penalties;
- the types of penalty imposed and their administrative or criminal nature;
- the gross amount of fines and the way in which they are fixed, in particular whether they are proportionate to the number of workers concerned. Whether a result of legislation or of its application in practice, a level of sanctions which is excessively low deprives labour inspection of its efficiency.

### 104. Consultation with employers' and workers' organisations

105. The enforcement of the regulations in law and in practice must be done in consultation with employers' and workers' organisations with regard to labour inspectorate activities other than participation in company inspections which is included in the "right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking" guaranteed by Article 22 of the Charter.

106. The Secretariat also pointed out that the situations selected for consideration by the Governmental Committee only concerned those that had been the subject of a non-compliance conclusion for the following reasons (apart from those for which compliance could not be established for lack of information):

- measures to reduce the number of fatal accidents were inadequate, and/or
- the labour inspection system was ineffective.

107. The representatives of the States party had been asked to provide relevant and up-to-date information on other reasons for non-conformity in their next report on Article 3§3 of the Charter (3§2 of the 1961 Charter), in the light of the assessment criteria outlined above.

### **RESC 3§3 BULGARIA**

***The Committee concludes that the situation in Bulgaria is not in conformity with Article 3§3 of the Charter on the grounds that measures to reduce the number of fatal accidents are inadequate.***

108. The Secretariat said that the situation was not in conformity for the first time.

109. The representative of Bulgaria provided information orally and in writing. He provided the following information with regard specifically to the reason for non-compliance:

“ [...]”

*Accidents at work and occupational diseases*

*Regarding the requested information about the measures taken in relation to the above-mentioned conclusion concerning the limitation of fatal accidents at work, we stress that the reduction of the level of occupational traumatism as a whole is a major priority in the activities of the General Labour Inspectorate (GLI).*

*We note that the findings in the report concerning the reference period 2012-2015 in our opinion have not been interpreted correctly.*

*According to the Conclusions the number of fatal accidents increased from 98 in 2012 to 117 in 2014, and the data from the National Social Security Institute (NSSI) and the GLI indicated that these were accidents under Article 55(1) of the Social Insurance Code (SIC), i.e. directly related to the working conditions and the work process. At the same time, the Conclusions point to an increase in the standardised rate of fatal accidents at work, which is calculated for 100,000 workers, but it is evident from the NSSI data that when calculating it they have taken into account the total number of fatal accidents at work, including incidents, which are not related to the working conditions and on which the GLI cannot have any influence (when travelling to and back from work). If only fatal accidents under Article 55(1) of the SIC for the reference period are taken into account, the incidence rate of this type of accidents shows sustainability and ranges from 3.34 to 3.81 excluding 2014. In 2014, the coefficient was 4.44, but a severe industrial accident was reported in that year, an explosion which caused the death of 15 workers. If the data is revised without taking into account the number of fatal accidents resulting from that explosion, the coefficient would be 3.87. These data do not show a sustained trend towards increasing the number of fatal accidents, so that it could be concluded that the measures taken to limit them were inadequate.*

*Regarding the measures taken to reduce fatal accidents after 2015, we consider that these are adequate and this is confirmed by the data on occupational traumatism and control activities of the GLI.*

*According to operational data of the NSSI in 2016 there were 2 257 accidents at work directly related to the work of the injured persons (Article 55(1) of the SIC) and in 2017 these accidents were 2 318. The slight growth is against the background of statistics for the growth*

*of economy and of the number of employed persons. Nevertheless, as a whole, accidents remained lower than in the period covered by the report 2012-2015.*

*Concerning severe occupational traumatism, according to the NSSI operational data, 71 accidents at work were reported and recognized as fatal accidents at work in 2016. In 2017 these were 79 cases. This type of accidents also show a downwards trend compared to the 2012-2015 reference period in the report when their number was between 87 and 117.*

*The greatest number of fatal accidents in 2016 and 2017 was registered in the Construction sector – 35; followed by the Transport, Storage and Posts sector – 34; the Trade sector – 13; the Extractive sector – 5, etc.*

*In recent years, including in 2016 and 2017, the enterprises in these sectors have invariably been in the focus of the inspection activities of the control bodies of the General Labour Inspectorate Executive Agency. The annual plans of the GLI include measures aimed at carrying out inspections in enterprises with economic activities that have a significant impact on the level of occupational traumatism and occupational diseases in the country in recent years. Also, the focus of the inspection activities has been on the provision of health and safety in the execution of general construction work, inspection of risky productions and activities included in the annual lists approved by the Executive Director of the Agency (to which traditionally belong the enterprises in the extractive sector, production and storage of explosives and chemicals, etc.).*

*It should be borne in mind that the high number of fatal accidents at work in the Transport, Storage and Mail sector are the result of traffic accidents, in relation to the prevention of which the GLI has limited opportunities for influence.*

*The construction sector is a good example of the adequacy of the measures undertaken by the Labour Inspectorate in relation to occupational traumatism. As a result of the analysis of the control activities, the sector has been identified as being at high risk, both in terms of health and safety at work, and in respect of the enforcement of the provisions concerning employment relationships – occurrence, remuneration, hours of work and hours of rest. Due to the identified risk, the GLI plans annually a special measure in the Agency's Plan of Operations, which ensures maintaining continued strengthened control in the sector, and organises inspection campaigns and training for inspectors.*

*The result of the measures is that the total number of accidents under Article 55(1) of the Social Insurance Code (accidents directly related to the process of work and the working conditions) in the construction sector have been decreasing over the years and the number of such fatal accidents ranged between 16 and 22 in the period 2012 – 2017. At the same time, the volume of construction work has been regularly increasing over the years, according to the National Statistical Institute (NSI) data. For comparison, the number of fatal accidents at work in the construction sector was highest in 2014 – 22, when the total built-up area of the new buildings during the year was 2 216 330 sq. m, according to NSI data. In 2017, the number of fatal accidents at work in the construction sector was 18, and the total area of construction activities was 3 982 502 sq. m, which is by nearly 80% higher than in 2014. We consider that when the volume of construction work is much larger even maintaining the same level of occupational traumatism should be considered a success, and in our case it was even lower.*

*[...].”*

110. The Secretariat said that the frequency of and trends in occupational accidents were critical in assessing respect for the right enshrined in Article 3§3 of the Charter. The assessment took into account the total number of occupational

accidents, defined as accidents - other than on the journey to and from work - entailing more than three days absence from work, and the number of such accidents in relation to the number of persons employed in each economic sector (standardised incidence rate per 100 000 workers as defined by EUROSTAT, which takes account of the relative importance of each employment sector in a country's economy).

111. The Secretariat also pointed out that the reference period for the 2017 conclusions was 2012 to 2015. In its assessment, the Committee had taken account of the standardised incidence rate and not the simple incidence rate that had been presented in the report. The Secretariat also referred to the statistics supplied by EUROSTAT for the reference period, which showed that the standardised incidence rate of fatal occupational accidents in Bulgaria had increased, from 4.65 in 2012 to 5.43 in 2014, which was above the average for the 28 EU countries (2.42 in 2012 and 2.32 in 2014).

112. The ETUC representative noted that the figures presented by the representative of Bulgaria remained high. The Governmental Committee could not assess the situation because the data provided concerned occupational accidents only in certain sectors. He asked what measures were planned or had been recently introduced to reduce the number of fatal accidents in the workplace.

113. The representative of Bulgaria referred to the relevant information and data that had just been presented and confirmed that the standardised incidence rate unfortunately was still high.

114. The ETUC representative said that the statistics supplied did not permit the Governmental Committee to reach a decision on the measures taken. Since the main reason for the non-conformity conclusion was the lack of measures to reduce the number of fatal accidents, it would be important to know not just the relevant figures but also the measures taken and their impact.

115. The representative of Ukraine suggested that the Governmental Committee take note of the information provided and invite the Bulgarian Government to take the necessary measures to reduce the number of fatal occupational accidents.

116. The Governmental Committee took note of the information provided and invited the Bulgarian Government to take the necessary measures to reduce the number of fatal occupational accidents.

### **RESC 3§3 LITHUANIA**

***The Committee concludes that the situation in Lithuania is not in conformity with Article 3§3 of the Charter on the grounds that:***

- ***measures to reduce the number of fatal accidents at work are inadequate;***

- *[it has not been established that labour inspection, insofar as it concerns occupational health and safety, is effective.]*

### First ground of non-conformity

117. The Secretariat said that the situation had not been in conformity with the Charter since 2013. The standardised incidence rate of fatal occupational accidents had been 6.26 in 2012 and 5.56 in 2014, which was significantly higher than the rate recorded in the 28 EU countries (2.42 in 2012 and 2.32 in 2014).

118. The representative of Lithuania provided information orally and in writing. In particular, regarding the reason for non-compliance, she supplied the following information:

« [...]

*Emphasising the improvements in national legislation, we would like to reiterate that in order ensure the investigations of all minor accidents at work the Republic of Lithuania Law on Safety and Health at Work was amended on 18 June 2015. It was established that employer's representative or a person authorized by the employer must immediately report to the State Labour Inspectorate about an accident at work which has caused damage to the worker's health, where the suffered damage is not serious, an accident work, if there is an insufficient number workers to set up a bilateral commission. It was also set up that the State Labour Inspectorate shall investigate an accident at work which has caused damage to the worker's health, where the suffered damage is not serious, an accident on the way to/from work, if there is an insufficient number workers to set up a bilateral commission or if an employer or a worker, disagreeing with the act of investigation carried out by the bilateral commission of the accident at work or the accident on the way to/from work, files a complaint to the chief state labour inspector.*

*Referring to the Committee's conclusions, that measures to reduce the excessive rate of fatal accidents were inadequate, it should be noted that on 22 May 2017 the National Action Plan on Occupational Safety and Health 2017-2021 was approved by the Minister for Social Security and Labour and the Minister on Health. The Action Plan includes responsibilities for public institutions to improve and ensure the safety and health inspection in Lithuania. High schools, scientific institutions and social partners also take part in the implementation of the Action Plan. The Action Plan aims at improving health and safety at work legal framework and implementation of health and safety at work regulations at enterprises, in particular micro and small enterprises, by strengthening their capacities for implementing efficient occupational risk prevention measures. The Action Plan also envisages ensuring appropriate competences of State Labour Inspectorate inspectors and occupational healthcare specialists for dealing with new arising tasks. In implementing Action Plan, State Labour Inspectorate analyses causes of accidents at work involving employees working less than one year (as in Lithuania about 35% of the fatal accidents at work happen to the workers, whose work record in the enterprise is up to one year), formulates interactive methodological guidance online for the prevention of accidents at work, having regard to occupational risks that have led to fatal and serious accidents and to the victims' age, and publish it on SLI's website and social networks, provides information to enterprises, in particular micro and small enterprises, using any appropriate means such as awareness raising campaigns, training and exchange of best practices as well as various IT-based*



*measures and social networks, ensures effective implementation of OSH regulations and monitoring by the efficient methods, providing consulting, using new communications means as well as imposing effective, proportional and deterring sanctions.*

*[...]*

*Accidents at work statistic shows that accidents in Lithuania usually occur in the construction, manufacturing, forestry and agricultural sectors (in these sectors occur average about 80 percent of all fatal accidents at work). Therefore, responsible authorities are planning their activities in the light of the above-mentioned sectors.*

*Currently, with a purpose to strengthen the role of coordinators for safety and health matters in ensuring the implementation of the safety and health requirements at construction sites, Provisions on the installation of the work places at construction sites are being prepared. A complete package of proposals aimed to ensure that building managers properly implement the safety and health requirements at construction sites. Trainings for building managers are carried out in order to obtain comprehensive knowledge of the safety and health, foresee opportunity to suspend the certificate of the construction manager in the cases of certain violations of the safety and health requirements, determined by the appointed State Labour Inspectorate inspector. These “soft” enforcement measures should increase the effectiveness of the inspection and will have a significant impact on reducing the number of the occupational safety and health violations on construction sites, whilst also reducing the numbers of the accidents at work.*

*As a result of the above-mentioned responsible authorities’ activities, the number of fatal accidents at work in the enterprises of the construction economic activity in 2017 compared to 2014-2015-year period dropped more than a twice, from 12 accidents in 2014 to only 5 fatal accidents in 2017.*

*In order to prevent accidents at work in forestry sector the Ministry of Environment is preparing Forest safety requirements, on the basis of which the SLI will prepare methodological recommendations to protect health and safety of the employees.*

*To ensure the prevention of accidents at work in agriculture information and consultation activities for farmers and farm workers with the participation of the SLI will be organized by the Ministry of Agriculture.*

*Regarding the statistical data, it should be noted that the number of fatal accidents at work decreased significantly in recent years. The number of fatal accidents at work declined from 82 in 2008 to 37 cases in 2017. In 2017 10 employees in Lithuanian enterprises died due to the traffic accidents. So, numbers of the fatal accidents at work, excluding traffic accidents, in 2017 in comparison with 2013 almost halved (decreased from 52 to 27). So it could be said that responsible authorities’ preventative activities were effective. More detailed statistical data will be provided in the next report on the implementation of the provisions of the relevant articles of the Social Charter.*

*Bearing in mind the above mentioned recent developments in national law as well as various preventive activities and improved statistics, it should be noted that Lithuania has made significant improvements regarding the better implementation of the Article 3§3 of the European Social Charter in law and in practice.”*

119. The representative of Ukraine suggested taking note of the information provided and calling on the Lithuanian Government to further reduce the number of fatal occupational accidents.

120. The Governmental Committee welcomed the positive developments and invited the Lithuanian Government to provide all necessary information in its next report. It also called on the authorities to take all appropriate measures to further reduce the number of fatal occupational accidents and decided to await the ECSR's next assessment.

### **RESC 3§3 PORTUGAL**

**The Committee concludes that the situation in Portugal is not in conformity with Article 3§3 of the Charter on the grounds that:**

- **measures taken to reduce the number of accidents at work are insufficient;**
- **the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.**

121. The representative of Portugal provided the following information orally and in writing on the first ground of non-conformity:

*First, we must highlight that these data are presented in a context of economic crisis and external intervention in the country (TROIKA), where there was a mobility of workers engaged in different activities in other economic sectors, and at the same time a probable reduction of the investment by companies in health and safety measures, given the economic difficulties.*

*Nonetheless, during the reference period 2012-2015, we must say that Portuguese authorities through the national inspective authority for labour conditions 'ACT' systematically committed itself to a strategy to reduce the number of work related accidents, as stated in the 12th national report, in fact according to the national plans and reports mentioned, it is clear the need to intensify and continue those actions, through both involving other agencies, identifying other means of response and also finding complementary resources to the National Strategy for Safety and Health at Work.*

*In its Conclusions the Committee states that the standardized incidence rate for fatal and non-fatal accidents remained at a level which is far above the average level observed in the EU-28.*

*In order to tackle this situation, ACT is developing a huge effort in order to reduce incidence rate for fatal and non-fatal accidents, and for that purpose has restarted methodologies for intervention (contemplating both information procedures and inspection visits), which resulted in the development of several campaigns in different sectors of activity (as described in the 12th national report). These campaigns integrated different phases of analysis and treatment of the phenomenon of accidents at work: a) Identify problems and needs, b) definition of the framework and objectives of action, and c) follow-up procedures by social partners.*

*This methodology was reinforced in the years following the period mentioned, but was fundamental to the approach of that phenomenon by ACT. In this regard we would like to point out the 2016/2017 Iberian Campaign to Prevent Work Accidents "Better Knowing to Prevent Better", developed within the framework of the European Strategic Framework for Safety and Health at Work 2014-2020, between the Labour Conditions Authority (ACT-Portugal), the Labour Inspection and Social Security (ITSS-Spain) and also the National*

*Institute for Occupational Safety and Health (INSHT-Spain). The preparatory work on the implementing of this Campaign started during the reference period, 2015.*

*It was a joint information, awareness-raising and inspection campaign for tackling work related accidents, focused on preventing the occurrence of work-related accidents, aiming substantially reduce the rates of work-related accidents in both countries and involves more than 20 public and private entities.*

*As a result of the methodologies mentioned above, as early as 2016, the number of inspections to verify the occupational safety and health conditions increased by 10% in relation to the previous year (from 6,972 to 7,685), the number of workers covered by these actions was 42% higher, and the number of entities visited had a 30% increase, compared to the previous year (from 3,570 to 4,628), as shown by the ACT National Inspective Activity Reports.*

*On the other hand, in 2016, a further 7% of notifications to take measures, compared to the previous year. This procedure increased 49% on the construction sector, and in the manufacturing industry 17% - the sectors with the highest accident rates.*

*There has also been an increase in the number of infraction proceedings (7% more than in 2015) and the total amount of fines imposed, as well as the number of convictions in court, reflects ACT's investment in this area.*

*In this context, we would like also to point out that the work initiated by ACT, as early as 2015 when this ENOSH 2015-2020 was published, in order to implement methodologies directed at workplaces aiming real reduction of occupational accidents.*

*Furthermore, the most used form of organization of services in Portugal is the external services of occupational health and safety, being very important to control / monitor the quality of these services in the workplace since this aspect is directly related to the working conditions in which work accidents occur.*

*In 2015, ACT also began to carry out audits of companies providing external services in safety at work, with the dual purpose of verifying compliance with the conditions that permitted administrative authorization for the provision of occupational safety and health services and the quality of service provided to customers, namely at the level of preventive activities being developed. All external occupational safety companies are expected to be audited by the end of 2018.*

*Between the years 2015 and 2016, ACT and the social and institutional partners of the Strategy released about 182 information tools regarding occupational safety and health. These instruments were part of the campaigns carried out (ex. agricultural and forestry sector, machinery and equipment, professional driving in the fishing industry, promotion of safety and health at work in schools, REACH, European Occupational Safety and Health Campaigns of the European Agency for Safety and Health at Work (EU-OSHA) - "Healthy workplaces contribute to stress management" and "Healthy workplaces for all ages, Iberian Campaign for the Prevention of Accidents at Work, Occupational Health and Safety Campaign for Temporary Workers and National Prevention Day) and are available in ACT official site as well as in social networks (facebook, instagram, twitter). The instruments developed /translated by the partners, such as brochure and guide on the repair of occupational diseases provided by the UGT and the 8 brochures provided by the Institute of Social Security on psychosocial risks were also publicized.*

*ACT also intends to strengthen the inclusion of OSH materials in education systems from the basic education level to the university level, both in vocational education, supporting the training of teachers, production of information content and teaching materials.*

*In this regard, ACT has recently concluded the coordination of a trans-national strategic partnership project for teacher training and the creation of communities of practice on OSH (Project Mind Safety! Safety Matters!) for a period of three years (from September 2015 to terminus in 2018). This project has partners from 5 countries and 7 Institutions.*

*Also in the context of OSH education raise and awareness, a Protocol was signed in March 2018 between ACT and Directorate-General of Education aiming to define their cooperation at technical, scientific, pedagogical and logistical levels to promote education for safety and health at work in public schools, as also defined in the framework of the National Strategy for Education and Citizenship.*

122. The representative of Portugal provided the following information orally and in writing on the second ground of non-conformity:

*Concerning the insufficiency of human resources in the labour inspection system to adequately monitor compliance with legislation on health and safety at work, is due to inform the Committee that ACT has been reinforcing the number of labour inspectors. In 2016, there were 314. During this year (2018), it will begin an initial training for 42 new labour inspectors and it is also taking place a recruitment process for more 80 new labour inspectors. The entry in the career of inspector is done by public recruitment system. In total, it is expected more 122 (42+80) which make a total of 436 (314 +122) labour inspectors.*

*Currently, an up-grading and dematerialization process is ongoing on the ITC systems of ACT, which will strongly impact in the performance of labour inspections and the promotion of health and safety at work. »*

123. The representative of the Netherlands noted that the number of inspections increased after the reference period. She asked whether a risk evaluation system had been set up for employers in Portugal. She also asked whether it was necessary to have 500 inspectors for the whole country.

124. The representative of Portugal explained that each employer had to provide an occupational medical service and show the inspectors that they complied with the law. Regarding the second question, she explained that there were not enough inspectors for every objective to be met.

125. The representative of Ireland noted the positive changes, particularly the increase in the number of workers covered and the number of visits carried out by the labour inspectorate.

126. The representative of Portugal stated that the process of recruiting labour inspectors had started in 2017.

127. The ETUC representative welcomed Portugal's efforts and hoped to see positive results.

128. The Governmental Committee welcomed the positive developments and invited the Portuguese Government to provide all necessary information in its next report. It also called on the authorities to take all appropriate measures to further

reduce the number of fatal occupational accidents and decided to await the ECSR's next assessment.

### **RESC 3§3 REPUBLIC OF MOLDOVA**

***The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 3§3 of the Charter on the ground that the labour inspection system is inefficient.***

129. The Secretariat said that the situation had not been in conformity with the Charter since 2013.

130. The representative of Moldova provided the following information orally and in writing:

*“ Data provided by the State Labor Inspectorate indicate that labor accidents in the Republic of Moldova have been decreased, in 2014 - 501 accidents, 2015-411 accidents, 2016-449 accidents and 2017- 417 accidents, including fatal accidents: 2014-39 fatal accidents, 2015-32 fatal accidents, 2016-33 fatal accidents and 2017- 30 fatal accidents.*

*Thus, in order to ensure the conditions for occupational health and safety and to improve the identification and reporting of accidents at work and to make the activity for ensuring these conditions more effective, the Government of the Republic of Moldova in 2017 by the Government Decision no. 889/2017 transferred the control functions in the field occupational health and safety to several national authorities.*

*Based on mentioned the Government Decision no. 889/2017, the National Agency for Auto Transport, the Civil Aeronautical Authority and the Naval Agency have since November 2017 control functions in the field of occupational safety and health.*

*Similarly, the staffs were transferred from the State Labor Inspectorate to agencies accountable for occupational health and safety, and thus, the capacities of these agencies have been strengthened, as following:*

- 1) 10 units - National Agency for Food Safety;*
- 2) 10 units - Technical Supervision Agency;*
- 3) 4 units - Agency for Consumer Protection and Market Surveillance;*
- 4) 4 units - Inspectorate for Environmental Protection;*
- 5) 4 units - National Agency for Public Health;*
- 6) 4 units - National Auto Transport Agency.*

*The process of staff transfer has been completed and the control functions in the field of occupational health and safety are provided by these agencies. The effectiveness of these entities' work in identifying, reporting and investigating accidents at work and ensuring control in the field of occupational health and safety is going to be started to be measured after the first half of 2018.”*

131. The Secretariat noted that the figures presented by the Moldovan representative did not correspond to those appearing in the national report for the reference period.

132. The ETUC representative asked for information on the staffing of the labour inspectorate following the reported restructuring, particularly the number of inspectors responsible for occupational safety and health.

133. The representative of Moldova said that before the restructuring the labour inspectorate had had a staff of 109, and after restructuring it comprised 73 labour inspectors, in accordance with the regulations approved by the Government.

134. The Chair asked whether the transfer of labour inspectors had been accompanied by a transfer of powers and responsibilities.

135. The representative of the Netherlands wished to know whether the powers and responsibilities of the labour inspectorate had also been transferred. She questioned the effectiveness of the inspectorate and wondered whether Moldovan legislation still allowed employers to investigate occupational accidents and, if so, whether employees could themselves report accidents and to whom.

136. The representative of Moldova confirmed that powers and responsibilities had also been transferred. Moreover, the law required employers to report all occupational accidents: to the labour inspectorate before the restructuring, and after it to the agency responsible for transport or to the consumer protection agency.

137. The representative of the Netherlands asked who undertook investigations: the labour inspectorate or another body.

138. The representative of Moldova said that it depended on the seriousness of the accident. In certain cases, the employer had to carry out inquiries, in others it was the responsibility of the labour inspectorate or another appropriate agency. She agreed that it was necessary to clarify these arrangements in the legislation.

139. The Chair asked for clarification on whether it was employers' or employees' responsibility to report accidents.

140. The representative of Moldova said that under the current legislation both employers and employees could report occupational accidents but the Labour Code required employers to establish and maintain proper working conditions and report accidents at work. Detailed information would be submitted to the Secretariat.

141. The representative of the Netherlands expressed concern that employers could themselves conduct inquiries into occupational accidents, however serious they were.

142. The ETUC representative agreed with the Netherlands representative and noted that the arrangements were still ineffective. It was still not clear how inspectors transferred from the labour inspectorate to the consumer protection agency, along with the powers and responsibilities, could carry out suitable investigations into

occupational accidents. He feared that the situation had got worse rather than better. Since the situation had been incompatible with the Charter since 2013, the Governmental Committee could apply its standard working methods.

143. The representative of Ukraine proposed that the Governmental Committee take note of the information provided and ask the Government of Moldova to make the labour inspection system effective.

144. The representative of the Netherlands, supported by the representative of Greece, said that the situation was extremely worrying. For the sake of the interests of employees in Moldova, she proposed that they put a working method to the vote.

145. The Governmental Committee voted on issuing a recommendation, which was rejected (0 votes for). It then voted on a warning, which was adopted (24 votes for, 8 against and 7 abstentions). It asked the Moldovan authorities to bring the situation into line with Article 3§3 of the Charter.

### **RESC 3§3 RUSSIAN FEDERATION**

***The Committee concludes that the situation in Russian Federation is not in conformity with Article 3§3 of the Charter on the grounds that:***

- ***measures to reduce the excessive rate of fatal accidents are inadequate;***
- ***the labour inspection is so understaffed it cannot be considered as efficient.***

146. The Secretariat said that the situation had not been in conformity with the Charter since 2013 with regard to the first reason, and was not in conformity for the first time with regard to the second one.

147. The representative of the Russian Federation provided the following information orally and in writing:

*“First of all I would like to say that we have firm tendency of fatal accidents rate going down.*

*Due to 2017 statistics the level is reduced 1.7 times for 5 years and 2.6 times for 10 year period.*

*We do understand that the situation is not perfect but we see huge progress every year.*

*Besides, we do not stop taking measures to improve the situation.*

*In 2015 the Government of the Russian Federation adopted a Conception of Increasing the Effectiveness of Ensuring Compliance with Labour Legislation.*

*One of the goals of the Conception is to create conditions for the development of employers' motivation to comply with the requirements of labor legislation, to improve working conditions of workers and to introduce risk-oriented approach to the system of supervision in labour field.*

*This means that preventive model for ensuring safety of workers is being developed. So, special attention is paid to formation of law-abiding behaviour of the employer and elimination of the reasons and conditions for breaking the law by informing workers on their rights and obligations, means of the protection of their rights and employers - on the existing mandatory requirements and methods of their implementation.*

*To implement this Conception we are working on systematization and updating of the acts containing mandatory requirements of labor legislation; formation of a generally accessible exhaustive list of mandatory requirements of labor legislation, compliance with which is verified in the course of supervisory activities; creation and replication of memos on labor rights and duties of the employee, information book "Library of labor situations" for employees; providing information access to the system of mandatory requirements of labor legislation, introduction of mechanisms for interactive discussion about the mandatory requirements in the Internet.*

*One of the effective ways to prevent breaking law by not meeting mandatory requirements is giving the employers opportunity to make preventive self-inspection. For this purpose a special internet service has been elaborated and methodological materials are being prepared.*

*Moreover, in 2017 Ministry of Labour and Social Protection of the Russian Federation became an Official partner of the global Vision Zero campaign launched by ISSA [International Social Security Association] at World Congress for Safety and Health at Work in Singapore.*

*As a partner to Vision Zero campaign Ministry of Labour and Social Protection of the Russian Federation will take action to call national companies to join this campaign by implementing Vision Zero strategy at companies' level.*

*Companies will be invited by the Ministry to sign up online to join this campaign.*

*Furthermore, within the Conception of Increasing the Effectiveness of Ensuring Compliance with Labour Legislation, I mentioned before, a priority Programme on reforming control and supervision system is being implemented.*

*One of the goals defined is to reduce the level of deaths in case of accidents at work and the level of injured in production with severe consequences which we had in 2015 by 30% by the end of 2020 and 50% by the end of 2025.*

*To achieve these numbers labour inspection has also to be more efficient. We suppose it can be done, first, by automatization of some processes with the help of e-technologies and, secondly, by introduction of risk-oriented approach.*

*The development of risk-oriented approach and its use in the planning of control and supervisory activities will allow the Federal Labour Inspection to differentiate the approach to monitoring activities depending on the degree of risk of harm (damage), which will significantly increase the efficiency of spending resources by concentrating the efforts of the inspectorate on the most potentially hazardous areas."*

148. The Chair noted that the Russian Federation had taken a number of measures.

149. The ETUC representative said that the measures and action taken were geared towards encouraging employers to abide by their responsibilities regarding occupational health and safety and asked for practical information on the second



reason for the non-compliance conclusion, in particular whether there had been any changes in the number of labour inspectors.

150. The representative of the Russian Federation could not provide detailed statistics about the number of labour inspectors but said that for the labour inspectorate to become more effective there had to be changes in its working methods. The number of labour inspectors would vary according to the number of economic sectors concerned; none of the labour inspectorate staff would have more work to carry out, but they would operate in a different fashion, linked to the use of new technologies. The emphasis would also be on high-risk sectors. Russian legislation required employers to report occupational accidents.

151. The Governmental Committee invited the Russian Federation to increase the effectiveness and staffing of the labour inspectorate and to provide all relevant information in the next report. In the meantime, it decided to await the ECSR's next assessment.

### **RESC 3§3 TURKEY**

***The Committee concludes that the situation in Turkey is not in conformity with Article 3§3 of the Charter on the grounds that:***

- ***measures taken to reduce the number of accidents at work are insufficient;***
- ***the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.***

152. The Secretariat said that the situation had not been in conformity with the Charter since 2013 with regard to the first reason, and was not in conformity for the first time with regard to the second one.

153. The representative of Turkey provided the following information orally and in writing:

*“I would like to start with Committee’s observations on the figures on work accidents and occupational health by giving some figures thereon covering the whole 5-year-range of reference period as asked for by the Committee in the last conclusion prior to proceeding to give an explanation as to the Committee’s observation about the increasing trend in the standardised incidence rate of accidents at work per 100 000 workers and a downward trend in the standardised incidence rate of fatal accidents at work and occupational diseases.*

*In the year of 2012, the total number of reported work accidents amounts to 74.871 and 386 for reported occupational diseases in 99 different branches of activities according to nace code. Of these work accidents and occupational diseases figures, 745 resulted in fatality, thus bringing the standardised incidence rate of accidents at work per 100 000 workers at 471.*

	<i>Number of Workers</i>	<i>Number of Work Accident</i>	<i>Number of Fatality</i>	<i>SIR of Work Accidents</i>	<i>SIR of Fatality at Work</i>
2012	15 887 000	74 871	745	471	4
2013	16 538 000	191 389	1360	1157	8
2014	17 125 000	221 366	1626	1292	7
2015	17 827 000	241 547	1252	1354	7

*Although only statistics for the years 2013 and 2014 were available at the time, the figures pertaining to the rest of the reference period, don't seem to be changing the trend for the standardised incidence rate of accidents at work and that of fatal accidents at work and occupational diseases. We will ensure the next report cover the reference period in full as far as figures and other details are concerned. However, I would like to make an explanation on the Committee's note on the upward trend of accidents at work and downward trend of fatal accidents at work and occupational health. There was a important change in the method of data collecting in 2013. Before the work accidents were reported only if the case entailed an entitlement for any compensatory payment to the victim by the Social Security Institution, if there happened to be no need for any payment on the grounds of lack severity of the accident, the work accidents were not recorded as an incidence of work accident, therefore these incidences never appeared in the statistics. Nonetheless, as of 2013, all the accidents severe or not, financially compensated or not, started to be included in the statistics So, the rationale behind the upward trend for standardised incidence rate of accidents at per 100 000 workers is the new method of collecting data in 2013 evaluating incidences that were passed unreported before 2013. Besides, E-report program has come into use since February 2012, enabling employers to send online the form of work accident and occupational disease to the Social Security Institution. With the advent of this online system, contract workers and the self-employed can report work accidents and occupational diseases easily online. The system permits reporting on the insured workers lost or injured together in the same incidence by just one notification. Data on the number of cases is hence configurable.*

*Data is received by use of European Union Standard ESAW (European Statistics on Accidents at Work) methodology. Efforts are being made on the practice of filling out forms and the development of statistical data based on the Law no. 6331 on Occupational Safety and Health. The program will also facilitate reporting public servants' work accidents and occupational diseases. Once in use, the program will let public servants report online.*

*Another issue that the ECSR asks about is the legal definition of occupational disease; in Article 14 of the Law No. 5510 on Social Security and Universal Health Insurance, it reads "occupational disease is the temporary or permanent disease, state of bodily or mental disability which the insured person is exposed to as a result of a recurrent nature due to the type of job he/she works in or the conditions of the execution of the job", in Article 3 of Law No. 6331 on Occupational Safety and Health, it reads "occupational disease signifies the one caused by exposure to occupational risks". As to the number of different occupational diseases approved by the Social Security Institution, the number is 597 in 2016 compared to 510 in 2015.*

*Whereas the number of workplaces has increased by 116 % the last 16 years and the number of workers by 69%, the rate of fatality among 100 000 workers has dropped by 25 %.*

*A number of amendments in the legislation have been enacted in terms of mining sector indicated by the Committee. With the regulation dated 24 September 2015 of occupational safety and health in mining workplaces, establishment of oxygenated self-rescue change stations between the activity zones and the adit is mandatory. Some substantial practices have been introduced as well, with various new legislative amendments.*

*In 2015*

*-Oxygenated self-rescue stations in underground charcoal mines and use of carbon monoxide masks is removed.*

*-Personnel tracking system has been brought in as an obligation to track underground workers and put into effect on 01 January 2017.*

*-Drills that are carried out on a yearly basis are done twice a year in mines.*

*-conveyors will be fire-resistant.*

*-mapping of mines will be produced on a three dimensional structure for the advancement and aeration purposes.*

*-on the paths used to carry people in case of emergency, the inclination will not exceed 18 degree, if so, a transfer of soil will be done*

*-a lifeline will be mandatorily set up to ease the way out for workers.*

*In 2016, practices of lifeline, sheltering chambers and oxygene masks have been elaborated in legislation.*

*In 2017*

*The structure of conveyors and other moving apparatus will be incombustible and they will be equipped with fire sensors.*

*-Rescue stations will be set up in a convenient spot to allow in the search, rescue and evacuation teams to intervene fast and effectively, the features and the number of materials and equipments in these stations and periodic check and calibration processes will be registered on the safety and health checklist.*

*-Presence of a shelter chamber in mines has become mandatory and will put into practice as of 1 July-for every mining enterprises.*

*-a new standard in coordination with Turkish Standards Institute has been introduced in 6 February 2017 in terms of occupational safety and health in mining workplaces.*

*-Works in relation to the preparations of a manual for fighting against dust within the framework of the studies of the Commission of Fight against Dust.*

*- A Symposium of Occupational Safety and Health in Mines was organised in Ankara with some 500 participants of sector representatives in 5 October 2017. Examples of good implementation from enterprises were shared and a subsequent panel took place.*

*- A Congress on International Occupational Safety and Health in Mining Sector will be held in İstanbul between 6 and 9 May 2018.*

*The second ground of non-conformity brought up by the Committee is “the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.” ...*

*A labour inspector starts the profession as an assistant labour inspector provided the he or she passed the exam for entry into the Board. Those who succeed in the entry exam, have to*

*be successful in the written and spoken exams held three years after their admission in order to become a labour inspector. Those who pass these exams are appointed as labour inspectors after three years of training and orientation period. This period involves not only theoretic preliminary formation but also professional training activities hands-on in company with active labour inspectors. During this period called “period of accompaniment”, assistant labour inspectors work on the field under the close supervision and monitoring of senior labour inspectors. Those who accomplish the written and spoken test after this demanding span of time which lasts at least three years acquire the title of “labour inspector”.*

*735 new assistant labour inspectors have been admitted since 2010 by our Labour Inspection Board. Totally 1003 inspectors and assistant inspector are on active duty by year 2018. The number of inspectors who are employed within our Board to carry out inspections with respect to occupational safety and health is 594, 424 of whom are assistant labour inspectors.*

*Our Board recruits assistant labour inspector on a regular basis within the framework of enhancing corporate capacity. However, due to the fact that it takes at least 3 years to train assistant labour inspectors and they have to undergo the period of accompaniment and that training conditions are taken into account in terms of recruitment plans, recruitment of assistant labour inspector at a number sufficient to meet the need is not possible all at once. Within the framework of efforts to increase corporate capacity of our Inspection Board, lastly, an entry exam was held in 2 December 2017 in three sessions, and 86 successful candidate were called up for interview in 11-20 April.*

*As regards the question about the varying numbers of labour inspectors in 2015 raised by the Committee as to why the numbers which are stated in the report and those published by ILOSTAT are different, it is mentioned that the number provided in the report for the Social Charter is 974 though it is claimed that the number of inspectors published by ILOSTAT is 853.*

*It seems there is a lack of coordination thereon, I quote an extract from the report on the implementation in Turkey of the Labour Inspection Convention No.81 that was sent out to the ILO Secretariat on 30 September 2015*

*“As of 29/04/2015, in the Presidency of Labour Inspection Board totally 948 inspectors composed of 273 chief labour inspectors, 208 labour inspectors and 467 assistant labour inspectors..... As of 29.04.2015, 30 assistant inspectors who were entitled to appointment began their tasks. In this context, as of now 978 labor inspectors are employed within the Presidency of Labour Inspection Board.”*

*So the numbers actually add up. There is an actual difference in numbers of only four inspectors, which might cause the mismatch due to a career move or retired personnel.”*

154. The ETUC representative asked about the objectives of all the congresses referred to, in particular whether they had given rise to a new policy or draft legislation on the subject. He also asked whether there were more recent statistics on occupational accidents.

155. The representative of Turkey said that their purpose was to raise awareness following the entry into force of new legislation in 2012. The trend in the number of occupational accidents remained stable.

156. The ETUC representative asked about the number of labour inspectors in 2018.

157. The representative of Turkey said that there was a total of 1 003 inspectors in 2018.

158. The ETUC representative said that there had been 974 labour inspectors in 2015, and an additional 61 had been recruited in 2016, which showed that the number of inspectors was lower in 2018.

159. The representative of Turkey promised to supply all relevant information in the next report.

160. The representative of Ukraine proposed that the Governmental Committee take note of the information supplied and invite the Government of Turkey to bring the situation into line with Article 3§3 of the Charter.

161. The Governmental Committee called on the Government of Turkey to reduce the excessive rate of occupational accidents and increase the staffing of the labour inspectorate. In the meantime, it decided to await the ECSR's next assessment.

### **RESC 3§3 UKRAINE**

***The Committee concludes that the situation in Ukraine is not in conformity with Article 3§3 of the Charter on the ground that the labour inspection system, insofar as it concerns occupational health and safety, is inefficient.***

162. The Secretariat said that the situation was not in conformity with the Charter for the first time.

163. The representative of Ukraine provided the following information orally and in writing:

*“It should be mentioned that within the framework of the ILO Decent Work Country Programme we launched in 2017 a project in cooperation with ILO and EU. The overall objective of the Project is to provide support to the Government of Ukraine to improve the effectiveness of the labour inspection system.*

*As a result, the Project will address institutional and legal needs of the State Labour Service, improving its capacity to develop actions in accordance with ILO conventions and EU directives.*

*All relevant information will be provided in our next report.”*

164. The Chair asked for confirmation that these programmes dated from 2017.

165. The representative of Ukraine said that the national programme for Ukraine had been launched in 2016 but the project that formed part of this programme had started in 2017.

166. The ETUC representative welcomed Ukraine's efforts to launch this type of programme and hoped to see positive results. Nevertheless, nothing had actually been done and he asked why there was a one-year moratorium.

167. The representative of Ukraine said that, overall, the aforementioned programme concerned safety and the social partnership. Under this programme, a project had been launched in 2017 to strengthen human resources. There had been a structural reform of the labour inspectorate in 2016, but thanks to this project the situation had improved.

168. The representative of the Netherlands noted a dramatic decline in the number of labour inspectors and the number of visits during the reference period. She asked whether Ukraine planned to increase the number of visits and, if so, what target had been set for the project referred to.

169. The representative of Ukraine explained that the project in question was intended to improve the situation, which included increasing the number of labour inspectors responsible for occupational health and safety.

170. The representative of the Netherlands asked for an estimate of the number of inspectors to be recruited under the project.

171. The representative of Ukraine could not give an estimate and said that all the necessary information would be included in the next report.

172. The ETUC representative concurred with the Netherlands representative and said that, upon launching this type of project, the country had an objective in mind, but on the basis of the figures in the report the Governmental Committee lacked additional information. There was therefore no change in the situation.

173. The representative of the Netherlands underlined that despite the dramatic fall in the number of inspectors and visits, the Government of Ukraine had promised to implement a number of programmes to improve the situation. However, there were no statistics or information to show what the objective was and how it could be achieved.

174. The representative of the United Kingdom agreed with the views expressed by the Netherlands and ETUC representatives.

175. The representative of Greece also thought that the Governmental Committee needed more information.

176. The ETUC representative proposed that the discussions be continued at the September session.

177. The representative of Greece agreed.

178. The representative of Ukraine promised to provide all the relevant information for the next Governmental Committee session.

## RESC 3§3 UKRAINE

***The Committee concludes that the situation in Ukraine is not in conformity with Article 3§3 of the Charter on the ground that the labour inspection system, insofar as it concerns occupational health and safety, is inefficient.***

179. The Secretariat pointed out that for the first time, the situation was not in conformity and reminded the Governmental Committee of the subject discussed at the previous session.

180. The representative of Ukraine provided the following information orally and in writing:

*« Currently, the Ukrainian labour inspection is composed of three different types of labour inspectors:*

- 1. State labour inspectors - mainly focused on issues related to employment, compulsory state social insurance etc.;*
- 2. State labour protection inspectors - concentrated mainly on labour protection issues; safe working conditions at workplaces; vocational and advanced training; benefits and compensations for work with heavy and harmful working conditions etc.;*
- 3. State occupational health inspectors - focused on measures to prevent occupational diseases, medical examination etc.*

*In 2017,*

- 18,688 control measures were taken by state labour inspectors, (16,454 orders were issued to eliminate violations detected);*
- 7415 protocols on administrative violations were drawn up (imposed fines amounted 2137 thousand UAH).*
- in accordance with Article 265 of Labour Code (on labour law responsibility);*
- 8018 decisions were taken on imposing financial sanctions in the amount of UAH 220,944 thousand;*
- 697 cases were submitted to law enforcement agencies.*

*The Government of Ukraine recently started a process of decentralization of some labour inspection functions through the delegation of the powers of executive authorities to local self-government bodies.*

*Executive bodies of city councils of the cities of regional importance, villages, small towns, city councils of united communities are recommended to establish a new body or to give authority to the existing executive body.*

*When making a decision, it is advisable to take into account the number of labour inspectors of the executive body sufficient for the effective exercise of control powers. It is recommended: 1 labour inspector per 20,000 persons living on the territory of the cities of regional importance, villages, small towns, city councils of united communities*

*As of 01.03.2018, the actual number of state labour inspectors (who received the certificate) was – 858 inspectors, of which:*

- Administration of the State Labour Inspection – 580 inspectors;*
  - Bodies of local self-government - 278*
- Selection and recruitment criteria applied for their recruitment is defined separately by each local self-government body.*

*Currently, a distance learning training system for labour inspectors of the bodies of local self-government has been established.*

*In April 2017 the Government of Ukraine approved the Procedures of state control over the compliance of labour legislation by the employers, through inspection visits and desk inspections, carried out by the labour inspectors of the State labour inspection (and its territorial bodies) and of the executive bodies of local self-government (of city councils of the cities of regional importance, villages, small towns, city councils of united communities).*

*Moreover, the Government demonstrates its efforts to fulfil commitments under the Association Agreement between Ukraine and EU in particular to incorporate 27 directives in the field of health and safety at work. »*

181. The ETUC representative stressed that it was difficult to analyse the data presented because they seemed almost unthinkable. He was surprised by the recommendation concerning one labour inspector per 20 000 employees.

182. The representative of Greece also mentioned the problem with data, particularly when comparing the data presented in the report and those given by the representative of Ukraine. She insisted on the fact that they could not be compared. She suggested that a PowerPoint presentation should be prepared to enable the members of the Governmental Committee to compare the data.

183. The representative of the Netherlands agreed with the ETUC representative and the representative of Greece and noted that the situation in Ukraine remained the same. She asked exactly how many labour inspectors there were.

184. The Representative of Ukraine stated that on 1 March 2018, there were 858 labour inspectors and promised that the next report would contain all the information mentioned.

185. The ETUC representative asked whether this was a big enough increase.

186. The representative of the Netherlands welcomed the positive developments and proposed a vote on a warning.

187. The Secretariat pointed out that the GC observed the same voting rules as the Committee of Ministers, namely a two-thirds majority of votes cast and a simple majority of the Contracting Parties. If no vote on a recommendation was held, the Committee was required to proceed with a vote on a warning. If the Committee put a warning to the vote, it voted on the basis of a two-thirds majority of the votes cast.

188. The GC voted on a recommendation, which was rejected (0 votes in favour, 22 against and 13 abstentions). It then voted on a warning, which was also rejected (6 votes for, 3 against and 26 abstentions).

189. The GC asked the Ukrainian authorities to provide comparable data in their next report.



Ground of non-conformity to be examined:

**Article 11§1 – Measures taken to reduce infant and maternal mortality are insufficient**

**RESC 11§1 AZERBAIJAN**

**The Committee concludes that the situation in Azerbaijan is not in conformity with Article 11§1 of the Charter on the grounds that:**

- **the measures taken to reduce infant and maternal mortality have been insufficient;**
- **public healthcare expenditure is too low.**

First ground of non-conformity

190. With regard to the first ground of non-conformity the representative of Azerbaijan provided the following information orally and in writing:

*“Improvement of healthcare service quality for mothers and children is one of the priorities of the state’s socially oriented policy. Currently “State Program on improvement of maternal and child health during 2014-2020” approved with the Presidential Decree No 550, dated June 13, 2014 continues to be successfully implemented. In the framework of this program efforts continue to strengthen technical capacity of health facilities providing services for mothers and children in cities and rayons, the supply of medicines and medical equipment has improved considerably. For the purpose of reducing maternal and child mortality rate in the country training courses were held for perinatal staff in leading health clinics in the country and abroad. In order to improve the work of the supply of maternity care facilities with the necessary medical equipment, medicines and medical supplies for the provision of intensive care to new-borns, especially premature birth, based on annual order prepared by the chief specialists of the Ministry of Health, 23 items of medications in 2016 and 18 items in 2017 were distributed among the perinatal centers in the cities and regions of the country.*

*In 2016, more than 81.5% of children were enrolled in the exercise of obligatory screening of children. 5.2% of children undergoing medical examination were registered by the health status dispensary, 1% were hospitalized in specialized medical institutions.*

*Infant mortality (0-1 years old): 2016 (per 1000 live births) - 11.4, 2017 (per 1000 live births) - 11.1. Child mortality (up to 5 years old): 2016 (per 1000 live births) - 13.8, 2017 (per 1000 live births) - 13.7*

*Maternal morbidity: 2016 (per 100 000 live births) - 13.8, 2017 (per 100 000 live births) - 14.6*

*Regularly monitorings of the protection of motherhood and child health services in cities and districts of the Republic are conducted. The results of the monitorings are analyzed by the Ministry of Health within the implementation of the “State Program on improvement of maternal and child health during 2014-2020”. In the framework of the monitorings, analytical reports are prepared for each quarter of a year on assessment of health service activity.”*

Second ground of non-conformity

191. With regard to the second ground of non-conformity, the representative of Azerbaijan stated that the budget allocated for health sector was 830 mln manat in 2016, respectively 747 mln manat in 2017.

192. The representative of Greece noted that while some programs are in place with regard to the healthcare of mothers and children, the data presented by the representative of Azerbaijan on infant and maternal mortality indicate that there have not been changes to the situation. With regard to the second ground of non-conformity, the representative of Greece asked for data on the public financing on health as a share of GDP.

193. The representative of Azerbaijan mentioned that, the main “State Program on improvement of maternal and child health during 2014-2020” approved with the Presidential Decree No 550, dated June 13, 2014 continues to be successfully implemented with regard to the healthcare of mothers and children.

194. The representative of Azerbaijan also mentioned that, Government of Azerbaijan will provide data on the public financing on health as a share of GDP in the next report.

195. The representative of the ETUC emphasised that the data provided indicate that the infant and maternal mortality rates have even increased compared to the period examined by the ECSR. Thus, it seems that the “State Program on improvement of maternal and child health 2014-2020” has no success.

196. The representative of the United Kingdom asked whether the representative of Azerbaijan could provide some prospects on the implementation of the above mentioned State Program.

197. The representative of Azerbaijan noted that, in the framework of this program efforts continue to strengthen technical capacity of health facilities providing services for mothers and children in cities and rayons, the supply of medicines and medical equipment has improved considerably. In order to improve the work of the supply of maternity care facilities with the necessary medical equipment, medicines and medical supplies for the provision of intensive care to new-borns, especially premature birth, based on annual order prepared by the chief specialists of the Ministry of Health, 23 items of medications in 2016 and 18 items in 2017 were distributed among the perinatal centers in the cities and regions of the country.

198. The representative of Sweden proposed to send a strong message to Azerbaijan since the situation has even deteriorated.

199. The representative of the Netherlands asked whether pregnant women in Azerbaijan have the possibility to undergo regular check-ups. The representative of Greece clarified that screening for pregnant women and children is examined under the scope of Article 11§2.

200. With regard to both grounds of non-conformity, the GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (17 in favour, 1 against, 18 abstentions). The GC urged Azerbaijan to take measures to reduce the infant and mortality rates and to increase the public funding allocated for health, and thus to bring the situation into conformity with Article 11§1 of the Charter.

## RESC 11§1 BULGARIA

**The Committee concludes that the situation in Bulgaria is not in conformity with Article 11§1 of the Charter on the ground(s) that:**

- **the measures taken to reduce infant and maternal mortality have been insufficient;**
- [it has not been established that sufficient measures have been taken to effectively guarantee the right of access to health care].

### First ground of non-conformity

201. The representative of Bulgaria provided detailed information in writing and orally. With regard to the ground of non-conformity examined by the GC (the first ground), the representative of Bulgaria provided in particular the following information:

*“Some strategic and operational instruments should be cited in this respect. For example, the policy for “Health for Mothers and Infants” of the National Health Strategy 2020 (adopted by Parliament) and the National Programme to Improve Maternal and Child Health 2014-2020. Under the above cited National Programme, Health and Counselling Centres for Maternal and Child Health have been established in all district administrative centres and in some university\_hospitals. They provide consultancy and logistics services by organising comprehensive medical surveillance of pregnant women who may be at increased medical risk, having a pathological pregnancy or chronic diseases and injuries. They also provide consultancies for children with disabilities and chronic diseases. Within the programme, funds are also provided to pay for examinations in the framework of biochemical screening for pregnant women to assess eventual risks for the child. Among other measures it should be noted that 94.5% of births have been attended by qualified healthcare personnel.*

*In recent years, projects in the field of reproductive health and child health have also been implemented, with the financial support of the EEA Financial Mechanism and the Norwegian Financial Mechanism. To improve the conditions for diagnosis and treatment, (...) high-tech equipment was delivered in 2016 in 34 hospitals across the country, including respective training of the personnel: (...).*

*Favourable trends have been also observed with respect to age-related infant mortality indicators, which are also reduced:*

- *perinatal infant mortality is decreasing, although at a slower pace, with 12.2 per 1 000 births in 2000 reaching 9.8 per-mille in 2016;*
- *neonatal infant mortality shows a marked downward trend from 7.5 per-mille in 2000 to 3.9 per-mille in 2016;*
- *postnatal infant mortality was considerably reduced from 5.9 per-mille in 2000 to 2.6 per-mille in 2016.*

*The mortality indicator for children aged 1 to 9 is one of the indicators against which Bulgaria has comparable to the EU average results, with a value of 0,20 per 1 000 children in that age bracket in 2016. Maternal mortality (deaths for reasons of the pregnancy, birth and postpartum – per 100 000 live births) in Bulgaria shows a sustained downwards trend – from 19.07 in 2001, during recent years it decreased significantly and in 2016 reached 3.1, being lower than the corresponding EU indicator (4.72).”*

202. The representative of Greece noted that the indicators show an improvement since the infant and maternal mortality rates have decreased.

203. The GC took note of the information provided by the Bulgarian representative, welcomed the progress done in respect of the relevant health indicators, encouraged the Bulgarian authorities to work for even better results and decided to await the next assessment of the ECSR.

## **RESC 11§1 GEORGIA**

***The Committee concludes that the situation in Georgia is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality have been insufficient.***

204. The representative of Georgia provided extensive information both orally and in writing.

205. With regard to maternal and child health, the following information was provided.

*“Georgia has achieved remarkable progress in reducing under-five and neonatal mortality rates to 10.2 and 6.1 per 1000 live births respectively by 2015 thus accomplishing the Millennium Development Goal #4 (MDG) set at the 2000 Millennium Summit: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate.*

*While significant progress has been made in reducing child/infant mortality rates, more efforts are needed to improve maternal mortality figures. Maternal Mortality Ratio in Georgia has fluctuated widely over the past decades. In 2015 it was 32.1 per 100 000 live birth, which is higher than average rate both for European region and the CIS. The rate decreased to 22.9 per 100 000 live births in 2016. All pregnant women have been tested for syphilis and HIV once during pregnancy and positive cases are provided with appropriate treatment. Newborns of mothers who demonstrate positive results of Hep B testing, receive immunoglobulin and a vaccine against Hepatitis B.*

*National MNH Strategy: 2017-2030 with related short term Action Plan (2017-2019) is developed and approved by the government with the aim to provide long-term guidance and coherent plan of action for the improvement of maternal and new born health in Georgia.*

*Perinatal Care Regionalization - “gold” model of maternal and new born service organization. The initiative of starting the perinatal care regionalization process from May 2015 is a significant step forward in strengthening the maternal and newborn health care system, which considers defining the levels of perinatal service providers and their role and responsibilities in order to provide the correct timing of the correct patient to a correct medical institution and, if necessary, effective referral. Regionalization was completed in 2017. From 105 facilities assessed, 82 facilities have designated level of care. All 82 facilities strengthened their capacity for infrastructure/equipment and competencies of service providers according to the level requirements.*

*Birth Registry: In 2016, MoLHSA in alliance with NCDC launched the nationwide electronic registry “Mother’s and neonate’s health surveillance system”, so called “Georgian Birth Registry” (GBR). The system tracks information on all cases of pregnancy, delivery, postpartum, neonatal care and abortion. The GBR also allows monitoring the regionalization of perinatal care services through providing data on selected maternal and neonatal health indicators. The coverage of pregnancy and childbirth by GBR increased from 47% in 2016 to 96 % in 2017.*

*Clinical Audit: The routine clinical audit of cases of stillbirth and maternal and neonatal mortality has been introduced by the MoLSHA in 2017 with aim to advance practice of*

*obstetrics and neonatal care and improve the quality of services through detailed clinical analysis of selected mortality cases. The comprehensive audit process allows identification of root causes of gaps and deficiencies in existing practices and in the health system and planning the corrective policy and practice measures at the local and national level.”*

206. The representative of Greece pointed out that, as reflected by the Conclusion on Article 11§1 of the ECSR, in particular the maternal mortality in Georgia registered high rates. She further noted that according to the data provided by the Georgian representative, the maternal mortality decreased from 32.1 per 100 000 live births in 2015 to 22.9 per 100 000 live births in 2016.

207. The representative of the ETUC thanked the Georgian representative for all the information provided. He further noted that there might be a progress in this field, but the rates of mortality are quite high. He pointed out that the situation was not in conformity on this ground for the 3rd time (namely Conclusions 2017, Conclusions 2013 and Conclusions 2009).

208. The representative of Georgia further provided information on the access to health care in Georgia. The representative of Sweden stressed that the ground of non-conformity refers to the infant and maternal mortality and asked clarification on the concrete measures taken in this field and figures regarding the relevant health indicators.

209. The Georgian representative indicated that according to the National Statistics Office of Georgia, the under 5 mortality rate per 1 000 live births was 10.2 in 2015, 10.7 in 2016 and 9.5 in 2017. The maternal mortality rate has dropped to 22.8 in 2016.

210. The representative of Bulgaria and the Secretariat pointed out that the rates are not comparable since the representative of Georgia provided the under 5 mortality rate per 1 000 live births, while the ECSR examines the infant mortality rate which represents the number of deaths of children under one year of age per 1000 live births.

211. The representative of Georgia indicated that data on infant mortality rate (number of deaths of children under one year of age per 1 000 live births) will be provided in the next report.

212. The representative of the Netherlands proposed that the GC apply its working methods.

213. The GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (23 in favour, 3 against, 14 abstentions). The GC urged Georgia to take measures to reduce the infant and maternal mortality rates and thus to bring the situation in conformity with Article 11§1 of the ESC.

## RESC 11§1 HUNGARY

***The Committee concludes that the situation in Hungary is not in conformity with Article 11§1 of the Charter on the ground that measures taken to reduce the maternal mortality have been insufficient.***

214. The representative of Hungary provided information orally and in writing regarding the measures taken to reduce maternal mortality as well as figures. She stated that:

*“According to the World Bank indicators the maternal mortality rate has increased from 16 to 17/100 000 live births by 2015 in Hungary.*

*Current data provided by the Hungarian Central Statistical Office indicate that frequent downward and upward changes occurred in the number of maternal mortality cases. However, taking the general tendency into account the maternal mortality rate and the number death cases/ 100 000 live births have been constantly decreasing since 1990.*

*According to the recent data of the Central Statistical Office the number of death cases (5.5 in 2014 and 6.6 in 2015) is lower than the figures based upon the World Bank indicators (16 in 2014 and 17 in 2015) which can result from the methodology applied. The international database contains only estimated data.*

*Furthermore, although the change of relevant figures published by the Central Statistical Office in Hungary for 2015 and 2016 is in line with the tendency reported on the basis of World Bank indicators, it is recommended to take into consideration the long- term trend that firmly shows a decrease of maternal mortality in the country.”*

215. The representative of Greece noted that the relevant data provided by the national Statistical Office show a better situation and they are lower than the indicators provided by World Bank, but this difference can result indeed from the methodology applied. In terms of measures undertaken, she further noted positive developments that the Committee could welcome.

216. The representative of the ETUC thanked the representative of Hungary for the information provided on the measures taken. He further asked clarifications on the figures and, if possible, updated data for 2016 and 2017.

217. The representative of Hungary indicated that data are controversial and updated figures will be provided in the next national report.

218. The GC took note of the information provided, invited Hungary to provide accurate and updated information on the relevant health indicators in the next national report and decided to await the next ECSR's assessment.

## RESC 11§1 REPUBLIC OF MOLDOVA

***The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality rates have been insufficient.***

219. The representative of the Republic of Moldova provided the following information with regard to the ground of non-conformity.

*“The infant mortality rate in the 2014-2017 period ranged from 9.4 to 9.7 deaths per 1,000 live births (2017 to 9.7 deaths per 1000 live births, 2016 to 9.4 deaths per 1,000 live births, 2015 to 9.7 deaths per 1,000 live births, 2014 to 9.7 deceased to 1,000 live births). A high level of infant mortality rate compared to EU countries is explained including by relatively small number of children born: 38 616 children in 2014, 38 610 children in 2015, 37 394 children in 2016 and 34 060 children in 2017. However, in absolute figures, the number of deaths of children under one year is declining, in 2017 - 330 children died, in 2016 - 352 children, in 2015 - 375 children and in 2014 - 372 children.*

*Maternal mortality in 2017 was 17.6 deaths per 100 thousand live births; in 2016 of 18.7 deaths per 100 thousand live births; in 2015 - 31.1 deaths per 100 thousand live births and in 2014 - 15.5 deaths per 100 thousands born. In absolute data the number of maternal deaths was 6 deaths for the years 2014, 2016 and 2017 and 12 deaths in 2015.*

*To improve the situation in the field of infant and maternal mortality Moldova has undertaken several measures.*

*Migration of the health workforce and intensive brain drain remains one of the biggest challenges of the health system. Republic of Moldova has invested efforts to strengthening health workforce at the country level in order to ensure delivery of people-centred interventions based on evidence. Strategy and Action plan on human resources for health 2016-2025 was endorsed by the Government in 2016. The pay per performance indicators was introduced for payment of staff in Primary Health Care and Hospital Sectors.”*

220. The representative of Sweden asked clarification on the connection between a high mortality rate and a lower birth rate as well as information on the concrete measures taken by the Republic of Moldova to reduce infant and maternal mortality.

221. The representative of the Republic of Moldova stated that the small number of children born has an influence on the calculation of infant mortality rate. She further emphasised that all child deliveries are undertaken in hospitals/medical facilities and that the migration of medical personnel represents one of the main challenges of the health system in the Republic of Moldova.

222. The representative of the United Kingdom noted that specific measures were taken under the Strategy and Action Plan on Human Resources for Health 2016-2025, and asked whether there are particular measures related to infant and maternal health within this Strategy.

223. The representative of Sweden reiterated the request for information on concrete measures pertaining to the ground of non-conformity examined, namely to reduce infant and maternal mortality. In reply to this request, the representative of the Republic of Moldova stated that some measures are taken in this area.

224. The representative of Greece proposed that the GC apply its working methods.

225. The GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (18 in favour, 4 against, 15 abstentions). The GC urged the Republic of Moldova to take concrete measures to reduce the infant and mortality rates and thus to bring the situation in conformity with Article 11§1 of the ESC.

## RESC 11§1 ROMANIA

***The Committee concludes that the situation in Romania is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality rates have been insufficient.***

226. The representative of Romania provided the following information orally and in writing:

*“Concerning infant and maternal mortality, the Ministry of Health reiterates that out of the 8 Millennium Development Goals (MDGs) of the United Nations, both objectives related to maternal and child health (Objectives 4 and 5) have been met.*

*Throughout 2016, the Department for Women's and Children's Health in the Ministry of Health performed the following specific activities:*

- the designation by the territorial public health directorates of at least one employee as the person responsible for the health of the woman and the child;*
- analyzing, together with the National Institute for Mother and Child Health "Alessandrescu - Rusescu" from Bucharest, the evolution of the child mortality indicator and especially of the premature neonatal and neonatal mortality in the years 2014 and 2015 and requesting proposals for their improvement by the public health directorates of the counties that recorded very high values;*
- completion of specific equipment for neonatology, related to the requests of the health units;*
- organizing a meeting for the analysis of medical malfunctions of pregnant women with high risk of premature birth, attended by the heads of the Obstetrics-Gynecology and Neonatology Departments from the 7 sanitary units in Bucharest;*

*Romania continues the specific interventions for reducing the infant and maternal mortality indicator mentioned in the report and will communicate in the next report the stage of their implementation and the additional measures taken.”*

227. The representative of Romania indicated that the figures on mortality rates show a slight decrease. She further indicated that Romania will continue the measures to reduce infant and maternal mortality mentioned in the previous national report and will provide information on their implementation as well as additional measures taken in the next report.

228. The representative of Greece requested updated data on infant and maternal mortality. She recalled that this is a long standing case of non – conformity. She further stated that she had hoped that more measures were taken in this filed so that the mortality rates decrease more.

229. The representative of Romania replied that no updated figures are available regarding maternal mortality and the most recent figure for infant mortality corresponds to 2016.

230. The representative of Sweden questioned against this background, whether or not it would be likely to have more positive figures regarding the mortality rates.

231. The Chair proposed that the GC apply its working methods.



232. The GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (20 in favour, 1 against, 18 abstentions). The GC urged Romania to take measures to reduce the infant and maternal mortality rates and thus to bring the situation in conformity with Article 11§1 of the ESC.

## **RESC 11§1 RUSSIAN FEDERATION**

***The Committee concludes that the situation in the Russian Federation is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality have been insufficient.***

233. The representative of the Russian Federation provided the following information to the GC:

*“We report that in Russia since 2012 there has been a steady trend towards a decline in infant mortality. Thus, the infant mortality rate decreased from 8.6 per 1000 live births in 2012 to 5.5 per 1,000 live births in the 12 months of 2017, that is by 36.1% compared to 2012 and by 8.3% compared with the same period in 2016 (6.0 per 1,000 live births). In January-February 2018 the infant mortality rate in the Russian Federation was 5.1 per 1,000 live births.*

*In 2016 the Russian Federation recorded a minimum maternal mortality rate of 10.0 per 100,000 live births, which is almost 40% less than in 2010.*

*I would like to draw your attention to the fact that the Russian Federation is one of the countries in the world that have reached Millenium Development Goal No. 5, according to which the maternal mortality ratio should have been reduced by ¾ over the period from 1990 to 2015. During the period 1990-2015 in Russia this indicator decreased by 78.7% (from 47.4 to 10.1 per 100 thousand live births).*

*Reduction of infant and maternal mortality in the Russian Federation is a result of the implementation of the complex of measures: optimization of the three-level system of medical care for women during pregnancy, childbirth and the postpartum period, including the creation of new perinatal centers; development and implementation of computer programs monitoring the status of all pregnant women who are registered in medical organizations; increasing the number of exit forms of work in remote regions for the purpose of conducting screening programs; provision of counseling to pregnant women, including with the participation of specialists from obstetric distance counseling centers, in order to adequately assess the degree of risk and timely send appropriate specialists to obstetric hospitals; provision of counseling for children using telemedicine technologies with the participation of specialists from federal public medical institutions; making the primary level of health care more efficient, intensifying work on the promotion of healthy lifestyles, conduction high-quality medical examinations of the children and carrying out necessary medical and recreational activities, carrying out vaccination in accordance with the National Vaccination Calendar (extended); ensuring the implementation of clinical protocols and recommendations in all medical organizations that provide assistance to children and women during pregnancy, childbirth, the postpartum period; improvement of qualification of medical workers, including in training simulating centers that provide medical assistance to mothers and children.*

*The implementation of measures to reduce the mortality of the population of the Russian Federation is under constant control of the Ministry of Health of Russia.”*

234. The representative of Greece thanked to the representative of the Russian Federation for the information provided. She recalled that it is the second time that

this ground of non-conformity is examined. She further noted that the rates are high, but there are concrete measures taken in this field, therefore she suggested that the GC take note of the developments.

235. The GC took note of the information provided. It invited the Russian Federation to take measures to bring the situation in conformity with Article 11§1 of the ESC and decided meanwhile to await the next assessment of the ECSR.

### **RESC 11§1 UKRAINE**

***The Committee concludes that the situation in Ukraine is not in conformity with Article 11§1 of the Charter on the grounds that:***

- ***the measures taken to reduce infant and maternal mortality have been insufficient;***
- ***insufficient measures have been taken to effectively guarantee the right of access to health care.***

236. The representative of Ukraine provided the following information to the GC:

*“On 5 April 2017, the Concept of the State Social Program for the implementation of the UN Convention on the Rights of the Child for the Period up to 2021 was approved by the Resolution of the Government.*

*The Concept recognizes the importance of reducing infant and maternal mortality. Currently, the Ministry of Social Policy in cooperation with relevant ministries including Ministry of Health has developed the draft of the State Social Programme which provides for inter alia ensuring access to all types of quality medical care for children from birth and providing at least 95 percent of the immunization of children in the first year of life*

*Ukraine has launched healthcare reform. The Law of Ukraine on State financial Guarantees of Medical Services came into force in January 2018. Its key objective is to enable equal access of Ukrainian citizens to good quality healthcare services. Main Goals are as following:*

- *introducing the State Guaranteed Benefits Package (emergency, primary, secondary, tertiary and palliative care services will be funded by the State within the framework of the medical guarantee program)*
- *introducing the “money-follows-the patient” funding model*
- *providing hospital autonomy*
- *introducing an e-Health system*

*In December 2017, the National Health Service of Ukraine (NHSU) was established. It will implement a policy in the sphere of state financial guarantees for medical services to the population and will work from the end of July 2018. NHSU - it is a national insurer, which will enter into contracts with health care institutions and buy their services in health care of the population.*

*Full implementation of the healthcare reform for the primary care will occur in 2019.”*

237. The representative of Latvia asked for clarification on whether the reforms mentioned by the Ukrainian representative represent a continuation of the ones already mentioned in the conclusions of the ECSR or they are new.

238. The representative of Ukraine confirmed that it's a totally new reform.

239. In reply to the question addressed by the representative of Latvia on the results of the previous reforms, the representative of Ukraine stated that it is very difficult to evaluate the implementation of previous reforms due to the difficult political situation. She reminded the GC that in 2014 there was a revolution with the consequence of a new government and new ministry of health who set up this new reform and in particular the establishment of a new National Health Agency providing for medical coverage.

240. The Chair asked whether it is planned to increase the funding for health or the financial means remain the same.

241. The representative of Ukraine stated that Ukraine is planning to introduce the state guaranteed benefit, financed by state budget for 2018 and 2019.

242. The representative of the United Kingdom asked for updated information on the rates of infant and maternal mortality. She also asked what the outcome of the roundtable on maternal health mentioned by the representative of Ukraine was.

243. With regard to infant mortality, the representative of Ukraine answered that the number of deaths was 3656 in 2014 and 3318 in 2015. Regarding the maternal mortality, she stated that following the roundtable, the minister of health prepared a draft programme which is under discussion.

244. The Chair asked clarification on the figures indicated by the representative of Ukraine, namely the number of deaths of children under one year of age per 1 000 live births (in case of infant mortality) and the number of deaths of women per 100 000 live births (in case of maternal mortality).

245. The representative of the United Kingdom asked whether the consultation on the draft programme above mentioned was finalised and what the follow-up was.

246. The representative of Ukraine answered that she did not have the exact rates but she could request them from the authorities. She also mentioned that the roundtable was held in November 2017. She stated that the Government will take all measures to reduce infant and maternal mortality.

247. The representative of Sweden thanked to the representative of Ukraine for the information provided. She noted that it is difficult to compare the figures provided by the representative of Ukraine with the rates indicated in the conclusions of the ECSR. The latter figures show even an increase of the maternal mortality rate, which indicate a dangerous trend despite programmes announced and there is very little information that show a positive trend.

248. The representative of Ukraine stated that the reforms launched this year are comprehensive and ambitious and they need time to show positive results.

249. The representative of the Netherlands noted that based on the figures available on World Bank database, the situation in Ukraine is comparable to the other countries in cases of which the GC has already voted. Thus, given the most

recent figures on mortality rates regarding Ukraine, she requested that the GC apply its working methods.

250. The GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (14 in favour, 7 against, 17 abstentions). The GC urged Ukraine to take measures to reduce the infant and maternal mortality rates and to effectively guarantee the right of access to health care, and thus to bring the situation in conformity with Article 11§1 of the ESC.

251. The Secretariat mentioned that the Council of Europe has set up an action plan for Ukraine, which contains a health action plan, funded by voluntary contributions. For now, only the justice reform is funded and therefore it would be important that funding for social rights is obtained/ secured.

Ground of non-conformity to be examined:

**Article 11§2 – Measures for counseling and screening of pregnant women and children are not adequate**

**RESC 11§2 GEORGIA**

***The Committee concludes that the situation in Georgia is not in conformity with Article 11§2 of the Charter on the ground that measures for counseling and screening of pregnant women and children are not adequate.***

252. The representative of Georgia provided detailed information orally and in writing. The following information was relevant for the ground of non-conformity examined by the GC:

*“Maternal and Child Health State Program. The aim of the program is to reduce maternal and child mortality, decrease the number of premature deliveries and congenital abnormalities through effective patronage of pregnant women and improving geographical and financial accessibility to highly qualified medical aid and to the medicines. In the frames of the program, NCDC undertakes following activities: providing tests and consumables for testing Hepatitis B, C, HIV/AIDS and syphilis in pregnant women (as well as - immunoglobulin against Hepatitis B to the children of HBV infected mothers); confirmational testing of positive cases of screening; newborn hearing screening in Tbilisi.”*

253. The Chair noted that the representative of Georgia provided detailed information on the mass screening in general. He requested specific and more concrete information on counseling and screening of pregnant women and children.

254. In reply to the Chair’s question, the representative of Georgia mentioned that there is a programme aimed at pregnant women, but she did not have the exact information at that moment.

255. The representative of the United Kingdom pointed out that it is quite difficult to assess the situation without the specific information regarding the ground of non-conformity.

256. The representative of the ETUC noted that the GC was provided with extensive information which went beyond the ground of non-conformity at stake. However, the information was unclear as to what exactly the measures for screening of pregnant women were and what was new in this field.

257. The Secretariat clarified that the only relevant information that the ECSR had at its disposal on this issue was reflected in the conclusion, namely that: “in 2015 the MoHLSA started a perinatal regionalisation process in two regions and the completion of the process for the whole country is planned for 2018. A pilot project is planned to ensure home visit model for early detection of developmental delays before age of 3 and to ensure timely referral of identified cases to relevant medical institutions.” The Secretariat indicated that more concrete information is needed in order for the ECSR to assess the situation, for example on the implementation of the above mentioned pilot project.

258. The representative of Georgia indicated that she would like to clarify this with her colleagues in Tbilisi.

259. The representative of Greece thanked to the representative of Georgia for the information provided. She further reminded the guidelines regarding the contributions of national representatives to the GC which should contain updated and relevant information for the ground of non-conformity at stake, and not to the situation in general.

260. The Secretariat expressed their availability to be consulted by the GC members when preparing the interventions in case the latter need clarifications and guidance on the grounds of non-conformity.

261. The representative of the ETUC considered that there was a lack of information since there was no information on this specific point and the information provided concerned other grounds of non-conformity. He further recalled that it was the third time the GC was waiting for relevant information.

262. The Chair indicated that there are two possibilities: either to give the chance to the representative of Georgia to obtain the information needed during the coffee break, or to proceed with the working methods of the GC.

263. The GC decided to allow the time to call to the representative of Georgia in order to obtain the necessary information.

264. After contacting her colleagues during the coffee break, the representative of Georgia provided the following relevant information:

*“National MNH Strategy 2017-2030 with related short term Action Plan (2017-2019) is developed and approved by the government with the aim to provide long-term guidance and coherent plan of action for the improvement of maternal and new born health in Georgia. (...)*

*In order to decrease number of mortality of mothers and children, also number of perinatal death from iron deficiency anaemia, and number of early delivery and inborn anomalies, from June 2014 all pregnant population is provided with folic acid up to 13th week of*

*pregnancy and in case of iron deficiency anaemia – with, iron deficiency anaemia medication from 26th week of pregnancy. From 2018 under Maternal and child health state program Government covers 8 antenatal visits by WHO new guidelines.*

*Maternal and child health state program includes:*

- *Antenatal screening for HIV / AIDS, H & C and hepatitis and syphilis*
- *Screening for genetic pathologies*
- *Prevention of hepatitis B, HIV / AIDS and syphilis in pregnant women and transmission of hepatitis to mother from mother*
- *New-born and child screening on hypothyroidism, phenylketonuria, hyperphenylalaninemia and mucopolysaccharidase*
- *Screening for newborn hearing screening*

*In March, 2017 MoLHSA initiated a selective contracting of facilities providing perinatal care services. Social Service Agency contracts only facilities which demonstrate required compliance with pre-defined quality criteria. Currently 30 facilities, providing perinatal care services from three largest cities of Georgia (Tbilisi, Kutaisi and Batumi) are involved in selective contracting process. The existed contract includes 10 quality indicators, covering the critical issues related to obstetric and neonatal care in Georgia.*

*The routine clinical audit of cases of stillbirth and maternal and neonatal mortality has been introduced by the MoLSHA in 2017 with aim to advance practice of obstetrics and neonatal care and improve the quality of services through detailed clinical analysis of selected mortality cases. The comprehensive audit process allows identification of root causes of gaps and deficiencies in existing practices and in the health system and planning the corrective policy and practice measures at the local and national level.”*

265. The Chair thanked the representative of Georgia for the information provided.

266. The representative of Sweden noted that it was very helpful to have this information. However, she considered that the GC could not assess the effectiveness of the measures taken at that point.

267. The GC took note of the information provided, and invited Georgia to bring the situation into conformity with Article 11§2 of the Charter and decided to await the next assessment of the ECSR.

## **RESC 11§2 UKRAINE**

***The Committee concludes that the situation in Ukraine is not in conformity with Article 11§2 of the Charter on the ground that prevention through screening is not used as a contribution to improving the health of the population.***

268. The representative of Ukraine provided to the GC the following information:

*“Within the framework of the above-mentioned healthcare reform, it is planned to introduce 9 mandatory screenings on the primary care level. They will be included in an official document called the Procedure for Provision of Primary Care. The primary care facility will be able to receive more money on the funding model the "money – follows the patient" principle only on condition that the doctors will conduct screening. A doctor should at least raise this issue with a risk person and perform a baseline examination, and in case of any suspicion, make a referral to a specialist to complete comprehensive medical examination.”*

269. The representative of Ukraine emphasised that in the framework of the new healthcare reform, it is planned to introduce 9 mandatory screenings within the primary care level.

270. The representative of Sweden asked more clarification on the mandatory screenings, for example how to make sure that the 9 mandatory screenings are followed by the patients.

271. The representative of Ukraine answered that this matter will be managed by the general practitioner at the primary care level.

272. The representative of the United Kingdom asked clarification on whether the representative of Ukraine referred to the fact that when a patient goes to the doctor, the doctor has to do a general check-up. She asked in particular whether the screening focuses on specific diseases or it is a general check-up.

273. The representative of Ukraine proposed to be given the permission to ask her colleagues for this specific information. She referred again to the fact that the reform is totally new and it is planned to change the mentality as the doctor should be responsible for each patient. She also mentioned that there are financial incentives for the doctors to implement it.

274. The representative of the ETUC noted that the reforms announced were very recent. He asked to what extent is this already operational, what the time calendar foreseen is and how the screening will be financed.

275. The representative of Ukraine confirmed that the reform on primary care is due to be completed in 2019 and will include the 9 mandatory screenings.

276. The representative of the Netherlands pointed out that it seems that for the moment there is no general screening in Ukraine and that the situation has not changed. She asked the representative of Ukraine to confirm that there is currently a mass screening programme available for the population of Ukraine.

277. The representative of Ukraine confirmed that screening is available according to the Ukrainian legislation.

278. The representative of ETUC asked information on the situation in practice, not only in law.

279. The Secretariat recalled that Article 11§2 of the Charter requires that there should be screening, preferably systematic, for all diseases that constitute the principal causes of death. She further referred to the Conclusion 2017 of the ECSR where it was held that “during the reference period no preventive programs of screening for diseases which constitute the main causes of death were implemented.” The Secretariat pointed out that if such mass screening programs for the population at large exist, the information should be provided to the ECSR, as well as on how screening is implemented in practice.

280. The representative of Greece noted that there is a legislative development and the law will be implemented next year. She considered that was a positive development.

281. The Chair requested more precise information on the 9 mandatory screenings/check-ups.

282. The representative of Ukraine proposed to try to obtain this information from her colleagues in the Ministry of Health.

283. The representative of the ETUC considered that this information is needed for the GC to take a position and therefore suggested that time is given to the representative of Ukraine to call her colleagues and discuss the case again after the coffee break.

284. The representative of Sweden stressed that there is some information on measures which seem to point to the right direction, but also clarified that without more precise information on screening programs it wouldn't be possible to assess the situation properly.

285. The representatives of the Netherlands, the United Kingdom and Greece joined the position of Sweden that there is significant lack of information. The representative of Greece suggested that if the representative of Ukraine is not able to contact and obtain the information needed in the coffee break, the case should be postponed for the September meeting of the GC.

286. The representative of the Netherlands invoked that for fairness of proceedings, the cases of Georgia and Ukraine should be treated in the same way.

287. At the proposal of the Chair, the GC decided to allow time to call her colleagues to the representative of Ukraine in order to obtain the necessary information. In case there is no new information after the coffee break, the discussion on Article 11§2 regarding both Georgia and Ukraine will be postponed to September session of the GC.

288. After the coffee break, the representative of Ukraine provided the following information:

*“Law of Ukraine “On the Fundamentals of Ukrainian Health Law”:*

*Article 31. Mandatory medical examinations*

*In order to protect the health of the population, preventive medical examinations of juvenile, pregnant women, workers of enterprises, institutions and organizations with harmful and dangerous working conditions, servicemen and persons whose professional or other activities are connected with servicing of the population or increased danger to others are organised.*

*Owners and managers of enterprises, institutions and organizations are responsible for the timely conduct of mandatory medical examinations by their employees and for the harmful consequences for the health of the population caused by the admission to work of persons who have not undergone compulsory medical examination.*



*The list of categories of the population, which must undergo compulsory medical examinations, periodicity, sources of financing, and the procedure for these reviews, shall be determined by the Cabinet of Ministers of Ukraine.”*

289. The representative of the United Kingdom asked clarification on whether the regulation mentioned is applicable only in the context of work environment.

290. The representative of Ukraine mentioned that the wording of legislation refers to “the health of the population, preventive medical examinations of juvenile, pregnant women, workers of (...), servicemen and persons whose professional or other activities are connected with servicing of the population or increased danger to others are organised.”

291. The representative of Sweden thanked to the representative of Ukraine for the information provided. She referred to the cooperation between the Council of Europe and Ukraine mentioned early by the Secretariat and in particular to the new reform on health and plan of action. Thus, she proposed to allow Ukraine some time to assess the implementation of the new reform.

292. The representative of the United Kingdom agreed with the latter proposal.

293. The representative of Greece considered that the GC could take note of these developments. However, she suggested that the GC stress that more clear/accurate and detailed information should be provided in the future by Ukraine.

294. The GC urged Ukraine to take measures to bring the situation into conformity with Article 11§2 of the Charter and to ensure the necessary funds for the implementation of the new reform. It also urged Ukraine to provide accurate and concrete information with respect to the ground of non-conformity in the next report and decided to await the next assessment of the ECSR.

## **Article 12 – The right to social security**

Ground(s) of non-conformity to be examined:

### **Article 12§1 – Insufficient length of service of unemployment benefits and/or insufficient coverage**

295. The Secretariat presented the main criteria used by the European Committee of Social Rights to assess conformity with Article 12§1 of the Charter, which also apply in respect of the 1961 Charter. She recalled in particular that the assessment was two-folded and aimed at establishing the adequacy:

- on the one hand, of the scope and coverage of the domestic social security system;
- on the other hand, of the level of income-replacement benefits.

### 296. Material and Personal Coverage

297. In order to be in conformity with the Charter, States Parties are required to have a social security system established by law and functioning in practice. Such system can include universal schemes as well as professional ones and provide for

contributory, non-contributory and combined allowances granted in the event of certain risks, but not necessarily intended to compensate for a potential state of need which could result from the risk itself.<sup>5</sup>

298. A fundamental feature of a social security system compliant with the Charter is that it must be collectively financed<sup>6</sup>, which means that it must be funded by contributions of employers and employees and/or by the state budget. When the system is financed by taxation, its coverage in terms of persons protected should rest on the principle of non-discrimination, without prejudice to the conditions for entitlement (means-test, etc.).

299. The social security system should cover the traditional risks and therefore provide the following benefits: medical care, sickness benefit, unemployment benefit, old age benefit, employment injury benefit, family benefit, and maternity benefit.<sup>7 8</sup> The Secretariat noted that almost all States had a sufficient number of social security branches, there were however still a few States which did not cover family benefits, employment injury benefits and/or unemployment benefits.

300. The Secretariat also stressed that, in order to assess the adequacy of the personal coverage, States Parties should regularly provide information on the percentage of population covered by the different branches of social security. In particular:

- as regards healthcare insurance and family benefits, States should provide evidence that the great majority of the overall population, not only employees, are effectively covered – they should therefore indicate the size of the overall population and the percentage of persons covered in terms of healthcare and family benefits;
- as regards other benefits, notably income-replacement benefits, they should provide evidence that the majority of the active population is covered by each branch – to this effect, they should indicate the size of the active population (workers as well as registered unemployed persons) and the percentage and/or number of persons insured for each risk (sickness, maternity and unemployment benefits, pensions, and work injuries/diseases benefits).

301. The Secretariat recalled that the statistical data to be provided should refer to the period of reference under examination, or at least the last year covered by such period of reference.

302. It was essential that such data should indicate the number/percentage of persons insured, rather than the number of beneficiaries. If the number of insured was not available, then States Parties should at least indicate which categories of persons were covered by mandatory insurance, together with an estimation of the size of the categories at issue (for example, if all employees are covered by mandatory unemployment insurance, then the national report should provide data on the number of employees). Similarly, if certain categories are excluded from

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<sup>5</sup> Conclusions XIII-4 (1996), Statement of interpretation on Article 12

<sup>6</sup> Conclusions 2006, the Netherlands

<sup>7</sup> Conclusions 2006, Bulgaria

<sup>8</sup> Conclusions 2013, Georgia

mandatory insurance (for example, self-employed, public employees etc.), then the report should explicitly state it and provide information on the size of the population not covered. This type of information should be provided for each social security branch, in each report concerning Article 12§1.

### 303. Adequacy of social security benefits

304. The Secretariat recalled that the adequacy of social security benefits was assessed in comparison with the poverty threshold defined as 50% of the median equivalised income, as calculated on the basis of the Eurostat at-risk-of-poverty threshold value. Therefore, States Parties for which the Eurostat indicator was not available should systematically indicate in each report on Article 12§1 the level of the national poverty threshold during the reference period.

305. States should furthermore indicate in each report on Article 12§1 the minimum amount of benefits – not the average amount - granted for each type of social security benefits during the reference period. Where the minimum amount of benefits is calculated as a percentage of the salary, the report should indicate the minimum wage which applied during the reference period. Where the domestic legislation does not provide for a minimum level of benefits, then the report should at least indicate an estimation of the level of benefits payable to a worker without dependents who has been working at minimum wage level for the minimum period required to be entitled to the benefit at issue.

306. The adequacy of benefits is in principle assessed in respect of contributory benefits, however in certain cases the non-contributory benefits are also taken into account, in particular where the level of contributory benefits is comprised between 40% and 50% of the median equivalised income. The report should therefore provide information both on contributory and non-contributory benefits, for each branch of the social security scheme, and clarify the conditions for entitlement. Where the level of benefits falls below the lower poverty threshold, fixed at 40% of the median equivalised income, the situation will be considered not to comply with the Charter's requirements, regardless of the other possible complementary allowances<sup>9 10 11</sup>. In this respect, it was recalled that Article 12§1 dealt with social security, while social assistance was examined under Article 13§1.

307. The level of maternity and family benefits is in principle not examined under Article 12§1, except for those States which have not accepted Articles 8§1 and 16. The Secretariat noted that, during the 2017 cycle, the European Committee of Social Rights had furthermore examined under Article 23, instead of Article 12§1, the adequacy of old-age pensions for States which had accepted both provisions.

308. The Secretariat also recalled that additional criteria were assessed in respect of unemployment and sickness benefits:

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<sup>9</sup> Conclusions 2013, Austria

<sup>10</sup> Conclusions 2013, Finland

<sup>11</sup> Finnish Society of Social Rights c. Finlande, complaint No. 88/2012, decision on the merits of 9 September 2014, §§59-63

- the length of payment of unemployment benefits<sup>12</sup>, which should not be unreasonably short, as compared to the insurance period required. Although the ECSR had not explicitly indicated a minimum length of payment required, it was noted that, in practice, a length of payment of unemployment benefits for less than six months had been in general considered to be too short, unless the insurance period required was also very short;
- the conditions under which unemployment benefits can be refused, suspended or cancelled, which should not put an excessive burden on the employment-seeker, in particular as regards refusal of a job offer - in this respect, States Parties were asked to explain their notion of “reasonable” job offer and under what conditions or for how long an offer can be refused without losing entitlement to the benefits<sup>13</sup>;
- the conditions under which sickness benefits can be refused, suspended or cancelled, which should not be linked to the nature and origin of sickness<sup>14</sup>.

309. As regards the selection of situations to be discussed by the Governmental Committee, the Secretariat pointed out that they only concerned findings of non-conformity (other than those where the conformity could not be established for lack of information) on account of, respectively:

- insufficient material or personal coverage of social security;
- disproportionately short length of payment of unemployment benefits.

310. The representatives of States Parties were invited to provide updated relevant information on the other grounds of non-conformity in the framework of the next report concerning Article 12§1, in the light of the criteria of assessment explained here above.

## **RESC 12§1 BOSNIA AND HERZEGOVINA**

***The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 12§1 of the Charter on the grounds that:***

- *[it has not been established that the existing social security schemes cover a significant percentage of the active population;]*
- ***the minimum duration of payment of unemployment benefit for people who have been insured up to five years is too short;***
- *[it has not been established that the levels of social security benefits are adequate.]*

### Second ground of non-conformity

311. The Secretariat recalled that only the second ground was on the agenda for examination and that the situation was not in conformity with Article 12§1 on this

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<sup>12</sup> Conclusions 2006, Malta

<sup>13</sup> Conclusions XVIII-1 (2006), Germany

<sup>14</sup> Conclusions 2013, Slovak Republic

ground for the second time, i.e. since Conclusions 2013. The ECSR considered that the payment of unemployment benefits for less than six months is in general too short, unless it is related to the length of contribution in a way that it is not disproportionate, which is assessed on a case-by-case basis. In the case of Bosnia and Herzegovina, however, a person who has worked between 8 months and 5 years is entitled to only three months of unemployment benefit, which the ECSR considered disproportionately short. As regards the other grounds of non-conformity, the Secretariat referred to the general presentation of the criteria applied when assessing conformity of national situations with Article 12§1 of the Charter (see above).

312. The Secretariat also pointed out that for States, like Bosnia and Herzegovina, Federal States or States with any form of decentralized organization at regional or other sub-state level, the reports should systematically clarify whether the information provided concern the whole territory or not, and specific information - notably statistical data - should be provided for each sub-state body (in the case of BIH, entities and the district).

313. The representative of Bosnia and Herzegovina provided some updated information concerning social security coverage indicating a rise of 4.65% in the coverage of health insurance compared to the previous reporting period (in 2017, 90,61% of the population was covered). Furthermore she indicated the trends concerning coverage of different categories of insured (employed, retired, unemployed etc.) and provided information on the monthly average number of beneficiaries of different benefits in 2017.

314. She confirmed however that, as regards unemployment benefits the situation was unchanged and no legislative changes were planned for the near future. She provided in particular the following information:

*“When it comes to the unemployment benefits, an unemployed person shall be entitled to unemployment benefit if he/she has been working for at least 8 months uninterruptedly or eight months with interruptions in the last 18 months. The duration of such payments depend on the length of insurance of the unemployed person, and it is paid from 3 to 24 months. Self-employed persons are also entitled to this kind of benefit if his/her business has ceased to run due to economic or technological reasons. An unemployment benefit amounts to 40% of the average net salary paid in the Federation in the last 3 months before the termination of employment of the unemployed person, and 35% or 40% in the Republic of Srpska and the District, depending on whether the persons has up to 15 years of pensionable service or more.”*

315. In response to requests of clarification by the Chair and the representative of the Netherlands, who noted that the situation had been found not to be in conformity with the Charter on this ground for the second time, the representative of Bosnia and Herzegovina confirmed that, although a new Labour Law had recently entered into force in 2017, there was for the moment no plan to modify the unemployment benefits scheme.

316. The GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was not carried (11 in favour, 11 against, 9 abstentions). It invited Bosnia and Herzegovina to bring the situation into conformity

with Article 12§1 of the Charter and decided meanwhile to await the next assessment of the ECSR.

## **RESC 12§1 GEORGIA**

***The Committee concludes that the situation in Georgia is not in conformity with Article 12§1 of the Charter on the following grounds:***

- ***the number of risks covered by the system of social security is inadequate, as there is no provision for family benefits, unemployment benefits or work injuries/occupational diseases benefits;***
- *[it has not been established that the level of minimum sickness benefits is adequate.]*

### First ground of non-conformity

317. The Secretariat recalled that only the first ground was on the agenda for examination and that the situation was not in conformity with Article 12§1 on this ground for the second time, i.e. since Conclusions 2013. In particular, the ECSR had noted in its Conclusion that the social security system did not cover family benefits, unemployment and occupational accidents/diseases and had stressed the difference between social security and social assistance.

318. Referring to the general presentation of Article 12§1 requirements (see above), the Secretariat pointed out that States are required to ensure the economic protection of the family by appropriate means, in particular through family or child benefits provided as part of social security, available either universally or subject to a means-test (Conclusions 2006, Statement of Interpretation on Article 16). Child benefits must constitute an adequate income supplement, which is the case when it represents a significant percentage of median equivalised income, for a significant number of families (Conclusions 2006, Statement of Interpretation on Article 16). Evidence of the adequacy of family/child benefits scheme is assessed by the ECSR on the basis of data indicating the coverage and the amounts granted, States are therefore required to provide such data in their reports on Article 12§1 if they had not accepted Article 16 yet, as was the case for Georgia.

319. The Secretariat insisted on the need for the ECSR to have more detailed information on child benefits (conditions of entitlement, number of beneficiaries, minimum amounts), in particular the one concerning children under 16 years of age and stressed that the information provided so far by Georgia were relevant to Article 13, rather than Article 12 of the Charter, insofar as the assistance measures described addressed specific situations of need, rather than a general benefit available to a significant number of families, as required by the combined requirements of Article 12 and 16. The Secretariat furthermore recalled that no information had been provided on the possible introduction of unemployment benefits and that clarifications were needed as regards sickness benefits and occupational injury/sickness benefits (whether any specific clause of sickness benefits applied to injuries of diseases occurred at work, minimum wage/minimum level of sickness benefits).

320. The representative of Georgia indicated that, since 2006, the unemployment benefits scheme had been replaced by job activation measures, and that a new package of incentives to employment was provided in a new draft law, which did not include however the provision of unemployment benefits.

321. She also referred to the social assistance measures available in the framework of the social package covering disabled persons, persons left without a breadwinner and persons considered to be victims of political repression. She also provided information on old age pension and targeted social assistance.

322. She insisted on the importance of targeted social assistance and referred to the new child benefit which had been introduced for families with children under 16 years of age. She also indicated that as from 2014 monthly cash assistance was provided for every third and fourth born child in areas suffering from demographic decrease (150GEL, up to 200GEL for families living in the mountain regions, paid for two years – 6950 beneficiaries in 2016, 7139 in 2017). Under the Law on “Development of Mountainous regions”, children born after 1 January 2016 were entitled to monetary social assistance if one of their parents has permanent resident status in the mountain region (100GEL per month, for one year, for the first and second child, 200GEL for the third and fourth child for two years – 3148 beneficiaries in 2016, 4225 in 2017).

323. She furthermore indicated that the ratification by Georgia of the ILO Convention on occupational diseases was under discussion.

324. In response to remarks by the Chair and the representative of the Netherlands, who had noted that the employment activation measures and the social assistance measures did not fall within the scope of Article 12§1, the representative of Georgia indicated that the issue of unemployment benefits might be discussed in the framework of the tripartite meeting next year, but that the current priority was the pension reform. She explained that the reintroduction of unemployment benefits required a major social security reform, with a view to defining the notion of “unemployed”, setting up a registration system as well as employment services. She referred to some EU funded projects but confirmed that no immediate change in this field was foreseeable for the time being. In response to a question by the representative of the United Kingdom, she provided some data concerning the number of beneficiaries of social package measures.

325. The GC proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (22 in favour, 1 against, 8 abstentions).

## **RESC 12§1 HUNGARY**

***The Committee concludes that the situation in Hungary is not in conformity with Article 12§1 of the Charter on the grounds that:***

- *[the minimum amount of old-age pensions is inadequate;]*
- *[the minimum amount of jobseeker’s aid is inadequate;]*
- ***the maximum duration of payment of jobseeker’s allowance is too short;***

- *[the minimum amount of rehabilitation and invalidity benefits, in certain cases, is inadequate.]*

### Third ground of non-conformity

326. The Secretariat recalled that only the third ground was on the agenda for examination and that the situation was not in conformity with Article 12§1 on this ground for the first time. She referred to the general presentation on the criteria of assessment of conformity with Article 12§1 of the Charter (see above) and recalled that the finding of the ECSR resulted from the fact that, in Hungary, a person must have paid contributions for at least 360 days during the previous 3 years in order to be entitled to unemployment allowance, and that one day of jobseeker's allowance is paid for every ten days of prior insurance, up to a maximum of 90 days of benefit. Accordingly the duration of payment ranges from 36 to 90 days, a duration which the ECSR considered to be too short, at least for a person who have contributed several years. In its Conclusion, the ECSR had furthermore asked whether the jobseekers' aid was submitted to a maximum duration of payment, like the unemployment allowance.

327. The representative of Hungary explained that the Government had indeed kept a restrictive approach to unemployment allowance, while promoting employment activation measures and insisted on the successful results obtained in terms of reduction of unemployment. In this connection, she provided the following information:

328. "The Fundamental Law of Hungary provides that "Hungary shall endeavour to provide social security to all of its citizens. Every Hungarian citizen shall be entitled to assistance laid down in the relevant legislation in the case of maternity, illness or disability, or if he or she becomes a widow(er) or orphan, or loses employment due to circumstances beyond his or her control."

329. The Act IV of 1991 on Job Assistance and Unemployment Benefits provides for the benefits of unemployed persons and the promotion of employment. The priority duties of the state include promoting the freedom of work and profession, promoting the provision of support for job seekers as well as preventing and mitigating the negative consequences of unemployment. Reflecting the Hungarian Government's employment policy, the Act governing the rights and obligations of the participants of the labour market defines the most important obligations of the state bodies in the field of employment policy, regulates the most common forms of support promoting employment, the job search service system, the eligibility criteria and the extent of the specific services, and the rules of their termination and recovery. The Unemployment Act also regulates the National Employment Fund that provides for the funding of supports and benefits, and the procedural rules of awarding supports and benefits.

330. In 2010, the Government of Hungary defined as its objective to create one million new taxable jobs until 2020. In order to achieve this it is essential to considerably increase the rate of employees in the population; to make the Hungarian labour market one of the most flexible ones in Europe; to create as many new jobs as possible with stable businesses, thus employing the highest possible



number of employees. As a contribution to the labour market objectives, the labour law has been reformed resulting in the new Labour Code effective from 2011.

331. Ten years ago the employment rate was at a remarkably low level, and from economic point of view it was rather unfavourable. Almost one and a half million people of active age stayed away from the labour market.

332. The Government of Hungary considers the maintenance and increase of the number of jobs and the expansion of employment as the primary task in the world of work. This government policy is linked to the relatively short duration of job-search support, encouraging active job search and improving labour market prospects for those who lose their job. This policy proved to be successful as the number of unemployed is gradually decreasing and the increase of the number of vacancies creates good employment opportunities for unemployed persons.”

333. In response to questions, the representative of Hungary indicated that the amounts of unemployment benefits had not been increased and corresponded to some 400€ in 2018 (at the maximum rate).

334. The representative of ETUC asked for clarifications on the increase of the employment rate, notably whether this policy had increased flexibility and precariousness of employment rather than stable employment. In response, the representative of Hungary stated that the data on employment concerned permanent employment and indicated that most unemployed persons found a new job within three months, which justified maintaining the current restrictions on the duration of unemployment benefits. The representative of ETUC noted that the excessively limited duration of unemployment benefits had also been criticized in the framework of the EU and that the issue would be further scrutinized under the EU semester.

335. The GC took note of the information and explanations provided and decided to await the ECSR’s next assessment.

## **RESC 12§1 MONTENEGRO**

***The Committee concludes that the situation in Montenegro is not in conformity with Article 12§1 of the Charter on the grounds that:***

- *[it has not been established that the existing social security schemes cover a significant percentage of the population;]*
- *[the level of sickness benefits is inadequate;]*
- *[the level of unemployment benefits is inadequate;]*
- ***the duration of payment of unemployment benefits to persons with an insurance period of less than ten years is too short;***
- *[the minimum level of disability pensions is inadequate.]*

#### Fourth ground of non-conformity

336. The Secretariat recalled that the situation was not in conformity with Article 12§1 on the ground related to limited duration of payment of unemployment benefits for the second time, i.e. since Conclusions 2013. At the previous examination by the CG, the Government had announced some increase in the amount of unemployment benefits, but no changes as regards the duration of the benefit. As it was, in the light of the assessment criteria explained in the presentation of Article 12§1 (see above) the ECSR considered that when unemployment benefits were paid for 3 months to a person who had been insured for less than five years, and 4 months to a person who had been insured between five and ten years, this duration was much too short.

337. On this point, the representative of Montenegro confirmed the information already examined by the Committee, i.e.:

*“The Law on Employment and Exercising Rights with respect to Unemployment Insurance prescribes the duration of unemployment benefits depending on the attained pensionable service, as follows:*

- 1) 3 months for pensionable service of one to five years;*
- 2) 4 months for pensionable service of five to 10 years;*
- 3) 6 months for pensionable service of 10 to 15 years;*
- 4) 8 months for pensionable service of 15 to 20 years;*
- 5) 10 months for pensionable service of 20 to 25 years;*
- 6) 12 months for pensionable service over 25 years;*
- 7) until re-employment, and/or occurrence of some of the grounds for termination of the right to a monetary compensation under this Law, for those with pensionable service of more than 35 years;*
- 8) an unemployed person with more than 25 years of pensionable service who is the parent of a person who, in accordance with the law, exercises the right to a personal disability allowance, shall be entitled to a monetary compensation until the re-employment, and/or until the occurrence of any grounds for termination of the right to monetary compensation this law.”*

338. The representative of Montenegro indicated however that the Ministry of Labour and Social Welfare had drafted a Proposal for a Bill on Employment Mediation and Unemployment Rights, which was sent for comments to the European Commission and the International Labour Organisation. The aforementioned law proposal prescribes the duration of monetary compensation for unemployed persons, depending on the period of insurance realized, as follows:

- 1) three months for pensionable service of nine months to five years;*
- 2) six months for pensionable service of five years to 15 years;*
- 3) nine months for pensionable service of 15 years to 25 years;*

4) 12 months for pensionable service of 25 years to 35 years;

5) five years for pensionable service of over 35 years.

339. The representative of Montenegro stated that the International Labour Organization had not formulated in its comments any objections to the proposed provisions concerning the amounts and duration of unemployment benefits.

340. She also provided in writing information concerning the personal coverage, confirming in particular that the whole population was covered in respect of healthcare and that all employees were covered by mandatory social insurance. In addition, she provided in writing information on how the amounts of sickness benefits, old age and disability pensions as unemployment benefits were determined.

341. In response to some comments, the representative of Montenegro confirmed that the length of payment of unemployment benefits had been increased, from four to six months, for persons who had pensionable service between five and ten years, but it was still limited to three months for persons with pensionable service of five months to five years and no further change was currently planned in this respect.

342. The GC took note of the information and explanations provided and decided to await the ECSR's next assessment.

## **RESC 12§1 SERBIA**

***The Committee concludes that the situation in Serbia is not in conformity with Article 12§1 of the Charter on the ground that the duration of payment of unemployment benefits for people who have been insured up to five years is too short.***

343. The Secretariat recalled that, in Conclusions 2013, the situation had already been found not in conformity with Article 12§1 on account of the limited duration of unemployment benefits, that is three months for persons who had worked for up to five years. She referred in this respect to the presentation of the assessment criteria of conformity with Article 12§1 (see above).

344. The representative of Serbia provided the following information:

*“In the Republic of Serbia, the duration of payment of unemployment benefit depends on the length of insurance period, and in the case of one to five years of insurance period, the period of the payment of the benefit shall be three months.*

*This provision was introduced in the Law on Employment and Unemployment Insurance that entered into force in 2009, given that one of the main intentions of the Law was the shift from passive to active employment measures and reduction in the allocations for passive measures in favour of the active ones.*

*The second reason for the change (before 2009, the payment period was 6 months) was the condition made by the International Monetary Fund and the World Bank to the Government of Serbia - these two financial institutions made a direct request to the Government to shorten the payment period of unemployment benefits. This decision was a direct consequence of the economic crisis that had hit Serbia and it was a condition for getting some financial help.*

*Today, the economic situation is different and much favourable. As evidence of this, the National Employment Service addressed the Ministry of Labour at the beginning of the year with a request for a change of the Employment and Unemployment Insurance Law and for the return of the length of insurance period for payment of unemployment benefits to the level it was before 2009. This request was made as a follow up of a research which was conducted last year. The Ministry has accepted this proposal.*

*It means that for the category of unemployed people who have one to five years of insurance period the period of the payment of the unemployment benefit will be 6 months.*

*In accordance with the Work plan of the Ministry of Labour, the change of the Law is foreseen for the end of 2019.*

345. The GC took note of the information and explanations provided and decided to await the ECSR's next assessment.

### **RESC 12§1 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**

***The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 12§1 of the Charter on the grounds that:***

- *[it has not been established that the existing social security schemes cover a significant percentage of the population;]*
- ***the minimum duration of payment of unemployment benefits is too short;***
- *[the minimum amount of unemployment benefit, calculated on the basis of the minimum wage in certain sectors, is inadequate.]*

#### Second ground of non-conformity

346. The Secretariat recalled that in Conclusions 2009 and 2013 the situation had already been found not to be in conformity with Article 12§1 on account of the limited duration on unemployment benefits, i.e. one month for persons satisfying the minimum requirements (9 months of uninterrupted employment or 12 months employment insurance out of the last 18 months). She referred in this respect to the general presentation of the assessment criteria of conformity with Article 12§1 (see above).

347. The representative of the "former Yugoslav Republic of Macedonia" confirmed that the situation was unchanged and referred to the information provided on previous occasions concerning the introduction of this provision and the data on the limited number of persons receiving unemployment benefits for the minimum period of one month.

348. He furthermore stated the following:

*"In this occasion, I could inform the ECSR and the Governmental Committee that now, with the recent change of the Government in the [former Yugoslav] Republic of Macedonia, I believe there is a firm willingness to make the necessary changes in*

*order to bring the situation in the country in conformity with this accepted provision of the Charter, i.e. with the Article 12 – Paragraph 1. Moreover, I would like to inform that the preparations for possible legislative changes have been already initiated recently, including:*

- comparative analysis (analysis of the situation in other countries) in respect to the specific issue in question (duration of the UB);*
- assessment of the different policy options and scenarios;*
- assessment of the possible fiscal implications (budgetary effects) of introducing legislative changes in respect to the duration of unemployment benefit.*

*We also have to emphasize that, by carefully analyzing the findings and conclusions of the ECSR on this particular issue and in respect to other countries, we are still not fully certain what exactly is the acceptable level of UB duration for various groups of workers (in respect of their previous employment, of course). In order to make the situation clearer, we believe it would be very useful if the Secretariat of the CG or the ECSR provide us with certain explanation and/or interpretation on the acceptable level of correlation between the previous employment duration and the duration of the unemployment benefit. With this in mind, I sincerely hope that next time, in our next report, we will be able to inform about some new and positive development (legislative changes) in this respect”.*

349. The Secretariat explained that the ECSR had widely debated in 2017 what length of payment of unemployment benefits should be considered reasonable. It had noted that different schemes applied in States Parties and that the duration of payment of the benefits was only one parameter among others, and could not be assessed in abstracto, without taking also into account the conditions of entitlement to the benefits, in particular the length of insurance required and the length of the reference period as well as the amount of the benefits, including the application of digressive rates in some cases, or of different rates for different categories of unemployed persons, for example depending on their age or family situation. Furthermore, in certain cases the ECSR had taken into consideration the existence of a parallel system of non-contributory unemployment allowances which could effectively complement the social security contributory scheme. In these cases, the conditions of entitlement, length of payment and amounts granted under the social assistance unemployment scheme and the possibility to cumulate these allowances with the contributory social security benefits had been also examined.

350. In view of the variety of the national situations and of the difficulty to identify criteria which would apply to all such situations, the ECSR had refrained from issuing a statement of interpretation and had reserved the possibility to come back on this issue after examining further, in the framework of a working group, the criteria of assessment of conformity with Article 12§1 of the Charter in relation to other provisions of the Charter.

351. The Secretariat indicated that, while it could not be excluded that the ECSR might clarify in future this and other criteria of assessment relating to Article 12, the criteria currently applied in practice could be deducted from the examination of the conclusions on Article 12§1, which indicated that in general a minimum period of payment of unemployment benefits for less than 6 months was considered to be too short. Exceptions had however been made on a case-by-case basis, taking into

account the proportionality between the length of payment of the benefit and the length of the insurance period required for entitlement (for example, in the case of France, where the minimum length of payment is 4 months, but it corresponds to an insurance period of 4 months).

352. The GC took note of the information provided; it urged the Government to put the situation in conformity with the Charter and decided to await the next ECSR's assessment.

#### **Article 12§4 - Right to social security - Social security of persons moving between States**

##### **RESC 12§4 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**

***The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 12§4 of the Charter on the grounds that***

***equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties***

353. The representative of "the former Yugoslav Republic of Macedonia" provided the following information:

*In respect to the raised issues on the social security rights to foreign citizens, i.e. to nationals of ALL other States Parties, we believe that the situation in the R. Macedonia in this respect was not properly and accurately understood and assessed by the ECSR.*

*The coverage with the mandatory social insurance in the Republic of Macedonia is regulated with several legal acts (such as the Law on contributions for mandatory social insurance, Law on pension and disability insurance, Law on health insurance, the Law on employment and insurance in case of unemployment), and in accordance with the legislation the **foreign nationals legally working in the country, exercise the social security rights (pension and disability insurance, health insurance) under the very same rules and conditions that apply to the Macedonian nationals, without any restrictions and limitations in this respect.** This applies also to exercising the rights from pension and disability insurance for the members of the family of the insured person (survivor's pension), as well as to the transfer of cash benefits (pensions).*

*The Law on pension and disability insurance and the Law on contributions for mandatory social insurance regulate the mandatory coverage with social insurance (pension and disability insurance, health insurance, insurance in case of unemployment) for **all foreign citizens** who are working on the territory of our country, including those that are coming from the countries with which the Republic of Macedonia **does not** apply an agreement on social security.*

*Of course, the issues of social insurance coverage, exercising of specific rights, **and especially the coordination of social security, retention and accumulation of rights and benefits, export of benefits etc.,** are in greater details and more precisely regulated by negotiating and concluding bilateral agreements on social security between Macedonia and other countries.*

*The Republic of Macedonia has achieved significant progress in negotiating and concluding bilateral social security agreements.*

*Since the independence of the country, Macedonia has already concluded bilateral agreements on social security with 21 countries (plus 2 additional specific – narrow scope, agreements: USA and Kosovo). There are also additional agreements with 5 countries still in force, concluded by the former Yugoslavia (inherited from the SFRJ).*

*In terms of the latest developments in this field, during the last year (2017) the negotiations with the **Russian Federation** have been finalized, for the text of the bilateral agreement and the corresponding administrative arrangement. The signing of the Agreement is expected.*

*As you are all very well aware of, the negotiation and conclusion of the bilateral agreements on social security is, of course, the **two-way, mutual process**, where the expressed interest and willingness is needed from the two parties, i.e. the two countries.*

*There are countries for which, through the formal and official diplomatic channels (ambassadors), the Republic of Macedonia has expressed its interest and initiatives for starting negotiation and concluding bilateral social security agreements, and we are waiting for the replies (such examples: Ireland, Latvia, Lithuania, Portugal, Spain).*

*From Estonia, for example, we have received negative reply - for the time being we have received a negative response.*

*The Republic of Macedonia has strongly expressed its willingness and readiness for improving and widening the bilateral cooperation in the area of social security and for concluding additional bilateral agreements. The efforts and activities in this field will continue.*

*However, what is important to be emphasized once again, and is very relevant for this specific finding of non-conformity, is that the Macedonian legislation provides access to the mandatory social insurance for foreign citizens, even in the cases where there is no bilateral agreement, on the same conditions which apply for domestic citizens and without any special restrictions and limitations....and there is no discrimination on the ground of citizenship in respect to the access to social security.*

354. The representative of the Netherlands noted that this was no case of non-conformity. There was no discrimination. Every foreign citizen was fully covered when working in the country.

355. The representative of "the former Yugoslav Republic of Macedonia" underlined that there were three separate grounds of non-conformity with this provision, two of which were not selected and concerned the lack of bilateral agreements as regards coordinating social security entitlements. Exportability of benefits accrued in "the former Yugoslav Republic of Macedonia" will be regulated in the agreements which are planned to be concluded in the future.

356. The GC noted that progress had been achieved as regards the conclusion of bilateral agreements. It invited "the former Yugoslav Republic of Macedonia" to provide all the details in the next report and decided to await the next assessment of the ECSR.

## **Article 13§1 – The right to social and medical assistance – Adequate assistance for every person in need**

357. The Secretariat recalled the case law of the ECSR concerning Article 13§1, which guarantees the subjective, individual right to social assistance, for which individual need is the main criterion for eligibility and which should be provided to any person on the sole ground that he or she is in need. The entitlement to the right to social assistance arises when the person is unable to obtain resources “either by his own efforts or from other sources, in particular by benefits under a social security scheme”.

358. The level of social assistance must be “appropriate”, i.e. make it possible to live a decent life and to cover the individual’s basic needs. In order to assess the level of assistance, basic benefits, additional benefits and the poverty threshold in the country are taken into account, which is set at 50% of the median equivalised disposable income and calculated on the basis on the Eurostat at-risk-of-poverty threshold.

359. Article 13 also requires that nationals of States Parties lawfully resident in the State concerned by equally treated with nationals as regards access to social assistance. Equality of treatment must be guaranteed once the foreigner has been given permission to reside lawfully or to work regularly in the territory of a Contracting Party.

### **RESC 13§1 ARMENIA**

***The Committee concludes that the situation in Armenia is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources is not adequate.***

360. The representative of Armenia provided the following information:

*A single person without resources has the right to receive social benefits in case he or she is registered in the family social assessment system and whose marginal poverty score is higher than the marginal score (30.00) defined for the given year by the Government of Armenia.*

*As regards single (unemployed) pensioners without resources (without work-capable children or guardians prescribed by law), it should be mentioned that they are entitled to receive social benefits in case their pension does not exceed 109.000 Armenian drams. Here it should be mentioned that it is a very high threshold for the pension size in Armenia and one can state that single (unemployed) pensioners without resources in most cases receive social benefit as an additive to their pension.*

*As of August 1, 2016 the amount of social benefit has been increased to 18.000 AMD (which is 1.000 AMD higher than in 2014).*

*At the same time, a single person without resources receiving a social benefit also benefits from a number of other privileges, including:*

- 1) Discounts on the payments for utilized natural gas and electricity. This regulation entered into force in 2017 and the amount was phase-by-phase reduced from 139 AMD, now standing at 80 AMD for 600 cubic meters of utilized gas.*



- 2) *They have other privileges as well, including receiving free of charge medical aid and services (both hospital and outpatient). According to the Amendments made in 2014 in the 2004 Government decision on the “Free of charge medical aid and services guaranteed by the State”, persons in temporary shelters for homeless persons, who are in most cases single persons, have been added in the list of population groups having the right to receive medical aid and services free of charge. The volumes of free medical aid and the list of its beneficiaries are being extended according to the country’s economic growth within funding envisaged by the state budget.*
- 3) *There are other privileges as well, including exemption from some state fees (for example they get passports and other official documents for which there is a fixed state fee, free of charge).*

*In order to improve social conditions of single persons without resources and to alleviate poverty among them, these persons are provided with care and social services adequate to their needs, as well as one-time daily free-of-charge food service at the charity canteens. The state "Social Service Center for Single Elderly People and Persons with Disabilities" under the Ministry of Labour and Social Affairs of Armenia provides home care services to single older persons and persons with disabilities according to their needs. In some cases, the state also provides co-financing and delegation of services to NGOs specialized in delivering home care services to socially vulnerable people, most of whom are single and disabled persons. Home care envisages delivery of household services provided by social attendants, social-psychological assistance provided by social workers and psychologists, medical assistance and services provided by physicians and nurses as well as legal aid and consultancy provided by legal consultants.*

*Moreover, it is of great importance that the new Government of Armenia, in the framework of comprehensive reforms undertaken in the country, has commenced active steps aimed at raising the amount of minimum pension and social benefits in the country. Presently, this issue is discussed in the framework of the elaboration of the 2019 state budget of the Republic of Armenia. And already at this stage a draft law "On State Pensions" suggesting the increasing the minimum pensions by 60% from 1 January 2019 is in the process of internal consultations and public discussion. We hope that already in the next reporting cycle we will be able to provide more concrete information on the developments and results in this direction.*

*Having said this, I would like to conclude my statement by saying that, as mentioned, there were some improvements and reforms undertaken in the country to meet the requirements of Article 13.1 and even more activities are planned in perspective by the new government to comply with provisions of the Charter.*

361. The GC invited Armenia to provide all the information concerning the levels of social assistance as well as the minimum pension and decided to await the next assessment of the ECSR.

## **RESC 13§1 AUSTRIA**

***The Committee concludes that the situation in Austria is not in conformity with Article 13§1 of the Charter on the grounds that in some Länder non-EEA nationals, lawfully resident are subject to a length of residence requirement of five years to be entitled for social assistance.***

362. The representative of Austria provided the following information:

*In 2010 the Federal Government and the Laender agreed on a joint so-called “Agreement according to Article 15a of the Austrian Constitution”. This agreement has stipulated nationwide common minimum standards for means-tested minimum income. This coordinated means-tested minimum income scheme replaced the Social Assistance as from 2010.*

*The 15a-Agreement on means-tested minimum income expired at the end of 2016. Originally, the plan was to reach a renewed 15a-Agreement on means-tested minimum income before the end of 2016, but no compromise could be found between the Federal Government and the 9 Laender.*

*Therefore the competency for social assistance and means-tested minimum income lies with the 9 Laender by law. Due to the fact that another 15a-Agreement could not be reached, the 9 Laender are fully in charge of legislation on and implementation of means-tested minimum income in Austria.*

*Regarding the entitlement to the benefits, the legal situation in the Laender remained unchanged. Four Laender adopted legal regulations that conform to ECSR case law. According to the statutes of five Laender the entitlement to the benefit is linked to the right to permanent residence in Austria, meaning that in principle a five-year residence period is required. However, to provide a safety net, all Laender introduced a hardship clause for foreigners, for which nationals from Charter signatory countries are also eligible. According to the clause, benefits may be provided to foreign citizens within the framework of the private sector management of the Laender, where such aid appears warranted in order to avoid any social hardship caused by the personal, family or economic situation of those individuals. This has resulted in an overall system that provides adequate support to everyone not having adequate funds.*

*In the years 2014 to 2017, the total number of people receiving means-tested minimum income has increased by 20%. At the same time, expenditures have increased by 40% (Source: Statistics Austria, BMS statistics 2014-2017).*

*It needs to be mentioned, that these figures do not fully reflect the access to means-tested minimum income by persons that have been granted asylum or subsidiary protection caused by the refugee crisis. In 2015 and 2016 approx. 131.600 asylum applications have been filed and these persons are also potentially entitled to means-tested minimum income as soon as they have been granted asylum status.*

*A further extension to all newly migrated citizens of third-country Member States on the sole basis of their legal residence would result in an unpredictable number of eligible persons and therefore would entail enormous costs. Expenditures that have increased in recent years have already led to enormous financial challenges for the Laender and municipalities. In some Laender access to social benefits was therefore restricted again.*

**Statistical data:**

*Statistics that monitor trends and migration movements of foreign nationals in Austria have been available since 1996.*

*Comparing the years 1996 and 2016, the net immigration of third-country nationals has increased almost twelvefold (= 2,983 vs. 35,371 persons). Looking at the year 2015 as a comparative year, it has increased even more than 25 times (2,983 vs. 77,005 people). Thus, since 1996, the highest number of migrants has been reached in the category of third-country nationals.*

*In the subcategory "European third countries" which contains 9 Social Charter Member States the net immigration has increased almost 70 times (= 157 vs. 10,849 persons) comparing the years 1996 and 2015. In 2016, there was an increase of net immigration of 51 times compared to the year 1996 (157 vs. 8,097 persons). Net immigration still remains far above the level of net immigration in years 2006-2011 (source: Statistics Austria).*

*Increases in the number of beneficiaries due to migration flows and access of persons that have been granted asylum and subsidiary protection have resulted in a challenging budgetary situation for the public sector. A further extension to additional groups of people is therefore not foreseen.*

363. The representative of the ETUC noted that there are two elements noteworthy in the information provided by the Austrian representative. First, that there is a political and economic reasoning relating to high influx of foreigners, resulting in the increase of the number of foreigners concerned. Secondly, the legal framework has changed – the umbrella framework has expired and there is no new one. If the umbrella framework does not exist, it remains solely in the competences of the lander to set criteria, and therefore the risk of deterioration of the situation is higher. He asked whether it was foreseeable to negotiate to establish a new umbrella framework.

364. In response to the question posed, the representative of Austria stated that the Federal Government had announced its intention to create a uniform federal basic law on the means-tested minimum income applicable to all the Laender and that no other information was available at the moment, as this reform is still in the planning stage.

365. The GC decided to invite Austria to provide the details on the evolution of the situation in the next report, including the legal framework and decided to await the next assessment of the ECSR.

## **RESC 13§1 BULGARIA**

***The Committee concludes that the situation in Bulgaria is not in conformity with Article 13§1 of the Charter on the grounds that the level of social assistance paid for a person without resources, including the elderly, is inadequate.***

366. The representative of Bulgaria provided the following information:

*Bulgaria follows a clear and consistent policy of improving the social protection system to the benefit of the people. The top priority is to ensure sustainable growth of people's basic income – from pensions and salaries – and to reduce the risks of permanent dependency on social assistance. In parallel - to avoid financial imbalances, that might cause to the system serious problems in the mid- and long term. The consistency in following this policy is in line with the implementation of that paragraph of Art.13 and is demonstrated by all the measures undertaken over the last two years (after the reference period). They are aimed at liberalizing access to social benefits and increasing their amount. It should also be noted that our decisions focus on improving the efficiency of the social assistance policy.*

*The following more important changes aiming to improve the social protection of the most vulnerable groups, including in terms of adequacy of benefits, have been put in place by amending the relevant legal framework :*

*Social assistance is now based on current residence. This is a fundamental change to the social assistance model in Bulgaria, which affects all potential beneficiaries. It facilitates citizen's access to social benefits and encourages labour migration, respectively encourages people of working age to be active on the labour market. It also enables elderly people to change their residence, especially in winter.*

*There is special focus on school drop-outs aged 16 to 18. After registration as unemployed they are provided with the opportunity to complete their education. Thus the risk of excluding their families from social assistance on that basis is eliminated, and, respectively, the amount of the social benefits is increased.*

*Conditions were created for increasing the amount of benefits received, by excluding the income of pupils in dual education from the limits for access to benefits.*

*A mechanism was introduced to automatically compensate the raise of pensions, thus avoiding the risk of excluding elderly people from the programme on targeted energy benefits only as a result of the annual raise in pensions.*

*The amount of the targeted energy benefits has been made conditional on the household's energy price and is updated annually.*

*Furthermore, the recently increased amount of family and child benefits for children with disabilities is excluded from the scope of the income test, concerning access to energy benefits, which leads to their actual increase.*

*And lastly one of the most important changes - the guaranteed minimum income (GMI) has been increased with 15% as of the beginning of this year.*

*Social assistance has always been and is an important mechanism to combat poverty. However, social benefits are not and cannot be the main tool to tackle this phenomenon. It requires the optimum coordination of policies and resources from various sectors. A complex approach is necessary in search of the right decisions and the implementation of the relevant measures and mechanisms, with the active support and involvement of the social partners and civil society.*

*It is important to note that social benefits are directly linked to the available financial resources of the state at any given time. It is not only the necessary political will to increase their amount so that we can comply with the specific recommendation of the GC on this. There is a need for balanced approach ensuring compliance with recommendations of other important European actors in other fields, such as those concerning financial stability. This means that we should avoid imbalances in other fields – resulting from ill-judged measures – because this might cause serious social problems with long-lasting effects.*

*It should be taken into account that social benefits – as part of the measures to alleviate poverty – cannot and should not be considered as the major factor for tackling this complex issue - especially in the context of a serious demographic crisis. The active behaviour of those in difficulties; encouraging and supporting such people, including with social benefits - are aspects of the approach which can provide the right solutions to the particular needs.*

*Furthermore, monthly social benefits are only one element of the welfare system. We can only make an objective assessment of their impact, including on poverty, once we have taken into account the effect of a whole set of benefits: payments and in-kind support and/or income of a*

beneficiary. We would like to underline that poverty in Bulgaria in nominal monetary terms – without considering the in-kind income – does not adequately correspond to the actual situation in the country.

The guaranteed minimum income (GMI) is the amount of funds envisaged by legislation, which is used as a basis for determination of the social benefits, which should ensure a minimum income for satisfying basic vital needs of the persons according to their age, family status, health and property status, employment or learning status. This happens through a system of correcting rates, which reach 140% at the persons over 65 years old, who live alone and 165% at the persons over 75 years old, who live alone, in connection with the (so) envisaged criteria. The GMI is an indicator, towards which is determined the amount of the social benefits under the Social Assistance Act, as well as the amounts of different types of social payments, among them: the amount of the integration benefits under the Integration of People with Disabilities Act, the amount of the financial aid for prevention and reintegration, for child breeding at (the home of) close people and relatives and in foster families under the Child Protection Act etc.

The beneficiaries of monthly social assistance of these two groups meanwhile receive also targeted assistance for heating, they are included in the FEAD program, and if they are with disabilities - they receive also integration allowances under the Integration of People with Disabilities Act etc.

It has to be noted here that as the GMI is the basis for determination also of the income limit for inclusion in the programs for monthly and targeted energy assistance. The two specified groups are priority groups and they have the highest limit for access to social support.

Examples:

If we assume, that in the cases, stated below, the persons have no other income, upon the current raised amount of GMI – BGN 75:

1. Person over 75 years old, living alone, at a correcting rate of 165% shall be able to receive a monthly assistance of approximately 15 BGN 124 compared to BGN 107 till the end of last year.

Furthermore, during the heating season this person shall receive every month also a targeted assistance for heating to the amount of BGN 75 (at the current level of the price of the electricity) compared to BGN 72 for the past heating season.

If this person is with disabilities, he/she shall have a right also of monthly integration allowances, which, depending on the type and extent of disability, might be from BGN 11 up to BGN 64 - compared to BGN 10 up to BGN 55 at the former amount of GMI; plus BGN 225 - compared to BGN 195 at the former amount of GMI - once a year for balneo-therapy and rehabilitation, and guaranteed right for free travel (return ticket) two times per year by railway transport under a chosen route.

This person is included also in the FEAD program.

2. Person over 65 years old, living alone, at a correcting rate of 140% shall be able to receive monthly assistance to the amount of BGN 105 compared to BGN 91 till the end of last year.

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<sup>15</sup> For ease of reference all amounts are rounded.  
BGN 1 = EUR 0.51

*Furthermore, during the heating season this person shall also receive a targeted assistance for heating every month in the amount of BGN 75 (at the current level of the price of electricity) compared to BGN 72 for the past heating season.*

*If this person is with disabilities, he/she shall have a right also of monthly integration allowances, which, depending on the type and extent of disability, might be from BGN 11 up to BGN 64 - compared to BGN 10 up to BGN 55 at the former amount of GMI; plus BGN 225 - compared to BGN 195 at the former amount of GMI - once a year for balneo-therapy and rehabilitation, and guaranteed right for free travel (return ticket) two times per year by railway transport under a chosen route.*

*This person is included also in the FEAD program.*

*It is important to note that other kinds of aid/benefits, which might be granted, are not included here, as for example: for rent of municipal dwelling (depending on the amount of the rent), for issuance of an ID document, one-off emergency social support in the amount up to BGN 375, aid for health treatment etc.*

*Each case is individually judged and depending on the particular circumstances, the person joins the different assistance programs, so the monthly social assistance is only the basis on which the specific protection scheme for each person in need is built.*

*When assessing the effect of the changes introduced, it should be born in mind that this assessment should not only be limited to the direct effect of the monthly benefits on poverty. The specific characteristics of the country and the established, unfortunately, negative demographic trends in Bulgaria should also be taken into consideration.*

367. The representative of Bulgaria noted that social assistance is a tool to fight against poverty. However, it should not result in a permanent dependency on benefits and an incentive not to go back to work. The representative of the Netherlands noted that assistance benefits can be an incentive for people not to go back to work. However, this is not the case for the elderly and those over 75. The representative of Bulgaria replied that the elderly receive more in relation of GMI. Now with 15% raise in GMI, the assistance has reached 124 levs for the elderly, compared to 107 levs in the beginning of this year. They also receive targeted assistance for heating.

368. The representative of the ETUC referred to the latest recommendations from the European Semester, which were not so favourable for Bulgaria. In any case, according to the representative of the ETUC, this situation will be watched over and hopefully between now and the next assessment of the ECSR it will continue to go in the right direction.

369. The representative of Greece also noted that there was a move in a positive direction in small, but important steps, and this was also a question of macroeconomic stability. It would be important to know how many people are concerned by this positive change, how many are left out. She asked if there was a study that could show that the system cannot do better and cannot allow for bigger steps than what are currently taken.

370. The representative of Bulgaria replied that over the last 10 years the level of GMI was not touched but now it was raised by 15% because the budget has allowed so, not only because of the political will or obligations imposed by the international

treaties. The economy has been growing over the last few years and the unemployment rate stood at less than 5%. The next report will provide the data on the results.

371. The GC noted the progress made, asked the Government to provide updated information and decided to await the next assessment of the ECSR.

## **RESC 13§1 ESTONIA**

***The Committee concludes that the situation in Estonia is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources is not adequate.***

372. The representative of Estonia provided the following information:

*It is with regret we have to recognize that the situation has not been in conformity with **the Charter on the ground that the amount of social assistance paid to a single person without resources is inadequate.***

*The Estonian Parliament is fully aware of this shortcoming and is making efforts to improve the situation. Estonia received its' first negative conclusion in 2004 and since then Estonia has gradually raised the subsistence level. While in 2004 the subsistence level was 32 euros, in 2018 the subsistence level for a single or first family member is 140 euros, for each following adult family member it is 112 euros and for children 168 euros.*

*It is important to highlight that the subsistence benefit consists of **the subsistence level and housing expenses**, taken into account within certain limits. All people whose income after the payment of housing expenses falls below the subsistence level are eligible for subsistence benefit. The number of times receiving the benefit is not limited and the amount of the benefit varies monthly depending on family composition and housing expenses.*

*The subsistence level is established and revised each budgetary year by the Estonian Parliament taking into account minimum expenditure on food, clothing, footwear and other goods and services to satisfy persons' basic needs. **The purpose of having the subsistence level in line with the subsistence minimum has been set as a priority in the "Welfare Development Plan 2016-2023" that Estonia endorsed in 2016.** In 2018, we reached this purpose – **the subsistence level for a single or first family member is 8 euros higher than the subsistence minimum without housing expenses** (based on Statistics Estonia). **The Welfare Development Plan also highlights, that the method of subsistence minimum** (also called absolute poverty threshold) **needs to be up to date and taken into account while annually establishing the subsistence level.** In October 2018, an analysis of subsistence minimum level will be published and taken into account while establishing the new subsistence level.*

*A person with no income receives a sum equal to subsistence level and housing costs are also covered. In 2015, the average sum of subsistence benefit paid was 167 euros per person of which housing costs made up 111 euros. In 2017, the average sum of the benefit was 206 euros per person and housing costs made up 126 euros of it.*

*Additionally it is important to note that most of the subsistence benefit receivers also receive other allowances and benefits covered by different social security schemes such as unemployment benefits and allowances, disability benefits, child benefits etc. Therefore their effect on the inactivity or poverty trap should be viewed in combination. Most of these*

*benefits are taken into account as income upon calculating the subsistence benefit, but certain benefits or one-off benefits are not taken into account.*

*In addition to the help provided by the state, local authorities provide social welfare services and pay different universal and needs-based social benefits to people in need. For example, they compensate the cost for pharmaceuticals, unexpected expenses; and they also offer food aid (in co-operation with NGO-s and the Fund for European Aid to the Most Deprived).*

*The overall direction in Estonia is to include as many people in the labour market as possible. Earning income is the best protection against poverty, it contributes in ensuring our country's sustainable social security system and actively participating in the society offers personal welfare as well as self-realization.*

*Several amendments have been made in the Estonian legal frame in regards to the aforementioned. I will introduce the most recent and important legislative changes, but the Committee will receive a detailed overview of those amendments.*

***In 2018, amendments were made in the Social Welfare Act in regards of the subsistence benefit. In order to encourage people to participate in the labour market, two main changes were made. Firstly, if a beneficiary of the subsistence benefit goes to work, then for 2 months his/her salary will not be taken into consideration as income, following a 4 months period when only 50% of the salary will be taken into account as income when the subsistence benefit is calculated. Secondly, salary earned by pupils is not included as income of the family. The aim of this change is to motivate young people to work legally and support the idea, that working is the best measure against poverty.***

*In addition, through the amendments the linkage with active inclusion measures is specified and local authorities will have more discretion in deciding whether and how much to grant the subsistence benefit and which incomes will be taken into account upon calculating the benefit. These principles are in accordance with the overall policy to keep people active, promote their participation in the labour market and lessen their dependency on the social benefit system.*

*Another important legislative change that took place in 2018 was declaring the needs-based family benefit, established in 2013, invalid. The aim of the needs-based family benefit was to alleviate poverty and offer additional help to families with children. Due to a low take up level and remarkably smaller number of beneficiaries than predicted (of whom more than half also received the subsistence benefit), the expected positive effect of the measure was not met. As of 2018, instead of paying two different national benefits, the **child's weight in the formula of the subsistence benefit was increased to 120% of the first member's level (it is therefore 168 euros).***

***The subsistence benefit continues to be an important social transfer for reducing poverty, but at the same time, it is crucial to avoid the formation of poverty, inactivity and low-income trap while paying subsistence benefit.** The main expected impact of the aforementioned amendments is that people participate in the labour market more actively, the absolute poverty rate decreases and the economic independency of people improves.*

***In conclusion, we agree that the help provided by the state and local authorities for people in need must be sufficient and we must gradually provide more financial resources for that purpose.***

373. The GC took note of the information provided by the representative of Estonia. It asked the Government to provide detailed information in the next report, including information on the basic benefit as well as the monetary value of additional



benefits (such as housing aid), which is paid to a single person without resources. The GC decided to await the next assessment of the ECSR.

## **RESC 13§1 FINLAND**

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

- ***the amount of social assistance, consisting of basic assistance and any additional benefits that may apply is not adequate;***
- ***the granting of social assistance to nationals of other States Parties is subject to a length of residence requirement of four years***

374. The representative of Finland provided the following information on the first ground of non-conformity:

*The ECSR is criticizing Finland firstly concerning the amount of social assistance; the Committee says that the amount of the basic social assistance is not adequate. I would like to explain the situation in Finland concerning the social assistance and how it is in connection with the other basic benefits.*

*Social assistance, or income support, is the last-resort form of financial assistance. It is available to individuals and families who are unable to make a living by any other means, and whose income and assets do not cover their necessary daily expenses. The Finnish system of social assistance consists of basic social assistance, supplementary social assistance, and preventive social assistance. It is possible also that the same person or family may have been receiving all the forms of social assistance. Also the social assistance is not the only benefit, which the person can get; she/he can also be entitled for example to housing benefits. The situation of the individual person is taken into consideration when determining all the benefits which the person needs and is entitled to. The amount of assistance and benefits varies between clients and families according to their needs and expenses.*

*Last year there have been some changes concerning the role and structure of the social assistance. The granting of basic social assistance was transferred from municipalities to the Social Insurance Institution of Finland (Kela) as of the beginning of 2017. The aim is to promote equal access to basic social assistance, enhance interaction with the authorities easier and simpler, and to increase the efficiency of the authorities' operations. Also housing benefits and other basic benefits are paid from Kela. The purpose was to reduce the person's need to deal with two authorities to obtain basic benefits.*

*In addition to the basic social assistance granted by the Social Insurance Institution of Finland (Kela), municipalities can grant supplementary social assistance to cover special expenses. Municipalities can also grant and decide the criteria for preventive social assistance for the purpose of promoting a person's or family's independent coping and preventing social exclusion. It can be granted for instance to alleviate difficulties caused by a sudden deterioration of the financial situation.*

### *Future developments*

*In Finland the law requires the Ministry of Social Affairs and Health to commission an evaluation of the development of the adequacy of basic social security from an independent evaluation group. This evaluation should be done every fourth year. Next evaluation will be in 2019.*

*In 2019 there will be also an election of the parliament and all parties have already stated that Finland will reform its social security system. Already the present Government has set a project to prepare a comprehensive reform of the Finnish social security system together with parliamentary actors. All parliamentary parties contribute to the project that draws on a people-centred approach to find answers to the complex and horizontal issue of the future social security.*

*The project will prepare alternatives for the next government. The Social Security reform offers policy-makers a comprehensive overview of the reform needs in and different alternatives for the Finnish system of social security and basic security. The aim is to seek new kinds of solutions to social security of the future for the use of future governments.*

*The reform aims to define guidelines for an overhaul of the Finnish social security system in ways that will safeguard that everyone can trust the system to respond efficiently and fairly to changes in their life situation.*

375. The representative of Finland provided the following information on the second ground of non-conformity:

*The ECSR has also made a conclusion that in Finland the granting of social assistance to nationals of other States Parties is subject to a length of residence requirement of four years. There might be some kind of misunderstanding in the ECSR because there is no such kind of requirement in Finland. Foreign nationals have the same rights to social assistance benefits irrespective of the length of residence. If a foreign national informed that she/he is going to stay in Finland permanently or she/he has a residence permit limited in duration, he/she is immediately eligible for the grant of social assistance.*

*This misunderstanding might come from MISSOC, which is a table on social assistance. In this table Finnish information is inaccurate and it is intended to be repaired. Section 19.1 of the Constitution of Finland provides that all those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care. This basic right applies to all persons residing in Finland irrespective of their citizenship. Also according to Article 2 of the Social Assistance Law, “everyone has the right to receive social assistance....”.*

376. The Chair observed that according to the representative of Finland, it is difficult to produce concrete statistics about all benefits together, because it is always the individual needs that determine the amount to be granted. It is important to look at the individual case. However, for the ECSR to be able to assess the situation, Finland will have to make sure that it provides information in the next report as regards the overall amount of assistance granted as well as concerning the treatment of foreign nationals.

377. The representative of the ETUC noted there were new developments, especially as regards the transfer of some benefits to the social security system. He asked whether the centralisation will help overcome the problem that ECSR has, in particular whether this will lead to better statistics/information about the level of different benefits, so that the problem of ‘estimation’ is overcome.

378. According to the representative of Finland, this was the whole purpose of centralisation. If at the moment there are over 300 municipalities, after centralisation only one institution will take care of the whole statistics.

379. The GC took note of the information provided and decided to await the next assessment of the ECSR, hoping that Finland can provide more detailed statistics as regards centralised systems. As regards the second ground of non-conformity, the GC invited the Government to provide clarifications as to the actual situation as regards treatment of foreign nationals.

## **RESC 13§1 FRANCE**

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

- ***the amount of social assistance, consisting of basic assistance and any additional benefits that may apply is not adequate;***
- ***non-EU nationals are subject to a length of residence requirement of five years to be eligible for RSA***

380. The representative of France provided the following information on the first ground of non-conformity:

*Actualisation des données et situation de la pauvreté en France, 2018*

*Une étude publiée début septembre par le ministère des solidarités et de la santé (DRESS, 2018) rappelle le poids des minima sociaux et des prestations sociales en France :*

***- 8,9 millions de personnes vivaient en 2015 sous le seuil de pauvreté en France, soit 14,2% de la population. Pour ces ménages, dont le niveau de vie est inférieur à 1015 euros par mois, les prestations sociales dans leur ensemble représentent 41% de leur revenu en moyenne (14% d'allocations logement, 13% de minima sociaux prestations familiales et 2% de prime pour l'emploi et RSA activité). Avec un taux de pauvreté monétaire à 13,6 %, le niveau de la pauvreté en France se situe également parmi les plus bas d'Europe (moyenne zone euro : 17,4%). Il est même le plus faible des pays les plus peuplés.***

***- Les prestations sociales réduisent le taux de pauvreté de 8,1 points. Elles permettent de contenir le taux de pauvreté à 14,3% alors que, sans cela, il serait de 22,4%. L'effet de la redistribution est particulièrement marqué pour les familles monoparentales (-19,6 points pour celles avec au moins 2 enfants), pour les personnes de moins de 20 ans (-13,1 points) et pour les personnes en situation de handicap (-11,8 points). Les prestations familiales, les aides au logement et les minima sociaux réduisent d'environ 2 points chacun le taux de pauvreté.***

***- Une personne seule sans revenu d'activité, locataire de son logement, perçoit 760 euros mensuels de prestations sociales, soit 491 euros de RSA (y compris 13 euros de prime de Noël, en moyenne dans l'année) et 269 euros d'allocations logement. En revanche, avec un revenu d'activité égal à un SMIC net (soit 1152 euros mensuels), une personne seule perçoit 156 euros mensuels au titre des prestations sociales: 14 euros d'allocations logement et 142 de prime d'activité. Ses ressources atteignent donc 1307 euros mensuels.***

***- 4,15 millions de personnes étaient allocataires de minima sociaux fin 2016 (RSA, AAH, minimum vieillesse, ASS, etc.). Avec les conjoints et les personnes à charge, 7 millions de personnes sont couvertes, soit 11% de la population. En termes de dépenses, cela représente***

26,2 milliards d'euros (1,2% du PIB). Pour la première fois depuis la crise de 2008, le nombre d'allocataires des minima sociaux diminue (-1,8% en 2016), principalement en raison de la baisse du nombre d'allocataires du RSA (-4,3% en 2016) et de l'ASS (-3,9%), deux minima particulièrement sensibles à la situation du marché du travail.

- **12% des bénéficiaires du RSA étaient salariés, fin 2015.** Parmi eux, 32% sont en CDI, 22% en CDD, 16% salariés de particulier employeur, 11% en emploi aidé. 64% travaillent à temps partiel. Ce chiffre va à l'encontre de l'idée reçue selon laquelle les minima sociaux dissuadent de travailler, note la DRESS.

#### - Simulations de situation personnelle, estimations du montants droits connexes RSA

NB : les aides locales ne sont pas toutes prises en compte en raison de leurs proportions et dispersions inégales sur le territoire français.

##### ➤ **Comparaison pour une personne seule sans enfant au RSA**

Hypothèses : -Loyer 200 €

-charges 30€

-Lieux d'habitation : Créteil

485€ de RSA

13 € de prime de fin d'année mensualisée

210 € d'allocation logement

35 € de réduction de TH

75 € de gratuité transport

20 € CMU-C (gratuité mutuelle)

12 € chèque énergie

10€ réduction sociale téléphonique Orange

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**860 € Montant estimé des ressources monétaire et non monétaires.**

##### ➤ **Comparaison pour une personne seule sans enfant rémunéré au SMIC**

Hypothèses : -Loyer 200 €

-charges 30€

-Lieux d'habitation : Créteil

-Montant smic net perçu = 1155€

130 € de prime d'activité

30 € d'allocation logement

35 € de remboursement transport employeur

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**1350 € Montant estimé des ressources monétaire et non monétaires.**

Lorsque l'on réalise une comparaison entre un bénéficiaire du RSA (touchant une AL) et un travailleur rémunéré au SMIC (touchant une AL), le bénéficiaire du RSA peut prétendre à des aides, et ainsi à un niveau de ressources, à hauteur de 860 € contre 1350€ pour le travailleur au smic, sous réserve d'un recours à la totalité de ces aides. Selon ces hypothèses, l'allocataire du RSA perçoit 64 % des ressources de la personne au SMIC.

##### ➤ **Comparaison pour un couple avec deux enfants**

Hypothèses : -Loyer 400 €

-charges 30€

-Lieux d'habitation : Créteil

89.-deux enfants d'âge scolaire

718 € de RSA  
130 € d'AF  
63 € d'allocation rentrée scolaire mensualisée  
30 € prime fin d'année mensualisée  
430 € d'AL  
50 € réduction TH  
150 € gratuité transport pour les deux parents  
60 € CMU (gratuité mutuelle),  
20 € chèque énergie  
10€ réduction sociale téléphonique Orange

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**Total 1 661€**

➤ **Comparaison pour un couple (dont une personne au smic) avec deux enfants**

Hypothèses : -Loyer 400 €  
-charges 30€  
-Lieux d'habitation : Créteil  
-deux enfants d'âge scolaire  
-Montant smic net perçu = 1155€  
430 € de prime d'activité  
130 € d'AF  
63 € d'allocation rentrée scolaire mensualisée  
300 € d'AL  
75 € gratuité transport pour un des parents  
60 € CMU (gratuité mutuelle)  
13 € chèque énergie

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**Total 2 226 €**

L'écart entre les deux couples est donc d'environ 565 € mensuels. Ce montant pouvant être modifié en fonction des aides locales (ex. réduction de 2€ du coût du repas à la cantine pour 2 enfants pendant 20 jours= 80 €)

Les ressources du ménage au RSA correspondent à 75 % des ressources du couple au SMIC.

**NB : définir le seuil de pauvreté :**

En France et dans l'Union européenne, le seuil de pauvreté est fixé de façon relative. On considère comme pauvre une personne dont les revenus sont inférieurs à un certain pourcentage du niveau de vie dit « médian ». Le niveau de vie médian est celui qui partage la population en deux, autant gagne moins, autant gagne davantage.

Ce pourcentage est de plus en plus souvent fixé à 60 % du revenu médian, alors que jusqu'en 2008, le seuil à 50 % était le plus couramment utilisé en France. Aucun seuil n'est plus objectif qu'un autre. Il s'agit d'une convention statistique. On peut tout aussi bien opter pour un seuil à 40 % ou à 70 %.

Seuils de pauvreté mensuels selon le type de ménage			
Unité : euros 2015			
	Seuil à 60 %	Seuil à 50 %	Seuil à 40 %
Personnes seules	1 015	846	677
Familles monop. avec un enfant de - de 14 ans	1 320	1 100	880
Couples sans enfant	1 523	1 269	1 016
Couples avec deux enfants de - de 14 ans	2 132	1 777	1 422
Couples avec deux enfants de + de 14 ans	2 538	2 115	1 693

France métropolitaine.  
Source : Insee - Données 2015 - © Observatoire des inégalités

381. The representative of France provided the following information on the second ground of non-conformity:

*Il est rappelé que le revenu de solidarité active (RSA), aux termes de l'article L. 262-2 du CASF, est un droit pour toute personne qui remplit deux conditions cumulatives : résider en France de manière stable et effective, disposer de ressources inférieures à un certain montant.*

*La réforme intervenue au 1er janvier 2016, instaurant la prime d'activité, et modifiant l'objectif d'incitation à l'exercice d'une activité professionnelle au profit de celui de la lutte contre la pauvreté et en faveur de l'insertion sociale et professionnelle, a laissé inchangée la condition d'antériorité de cinq ans de séjour sous couvert d'un titre autorisant à travailler posée par l'article L. 262-4 du CASF.*

*Si le RSA n'a plus directement pour objet d'inciter à l'exercice ou à la reprise d'une activité professionnelle, il a désormais pour objet, notamment, de favoriser l'insertion sociale et professionnelle. La condition de résidence stable et effective demeure essentielle à la réalisation de cet objectif. De même, cette condition concourt toujours à assurer la maîtrise des dépenses à la charge des départements et de l'Etat. La durée de cinq ans de résidence préalable en France sous couvert d'un titre de séjour autorisant l'étranger à travailler, eu égard aux exceptions toujours prévues pour certaines catégories d'étrangers et aux autres prestations dont peuvent bénéficier les étrangers en situation régulière qui ne remplissent pas cette condition de durée préalable de séjour, ne paraît donc pas disproportionnée à ce nouvel objectif.*

*Pour mémoire, le Conseil d'Etat CE (décision n° 375887 du 10 juillet 2015 Mme Houara) a estimé que la condition de résidence régulière en France depuis au moins cinq ans imposée aux étrangers ne constituait pas une discrimination illégale au regard des stipulations combinées des articles 14 de la convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales et 1er de son premier protocole additionnel. En effet, au regard de sa finalité - qui consiste à inciter à l'exercice ou à la reprise d'une activité professionnelle - la condition de résidence stable et effective en France assortie de la possibilité de travailler s'impose à l'ensemble des demandeurs quelle que soit leur nationalité. Toutefois, la CE a considéré que la situation des étrangers est objectivement différente et justifie l'exigence d'un titre de séjour de cinq ans autorisant son bénéficiaire à travailler.*

*Un arrêt plus récent du Tribunal administratif (TA) de Paris a considéré que la réforme en 2016 du RSA n'a pas rendu la condition de cinq ans de résidence en France imposée aux étrangers non communautaires pour pouvoir en bénéficier contraire aux stipulations combinées de l'article 14 de la convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales (CEDH) et de l'article 1er de son premier protocole additionnel (TA de Paris n° 1613982/6-1).*

382. As regards the second ground, the representative of France said that there was no change to the situation. He referred to the Decision of the Conseil d'Etat, according to which (décision n° 375887 du 10 juillet 2015) , the Conseil d'Etat held that imposing 5 years of residence requirement on non-EEA nationals as a condition for eligibility to RSA did not constitute discrimination in the light of Article 14 of the European Convention on Human Rights in combination of Article 1 of the Additional Protocol to the Convention. The court held that if the RSA is no longer directly intended to encourage the exercise or resumption of a professional activity, its purpose is now, inter alia, to promote social and professional integration, and in this respect the condition of stable and effective residence remains essential to the achievement of this objective.

383. The Chair noted that updated figures should be prepared to be presented in the next report so that the ECSR sees the evolution (such as, for instance the fact that the RSA has gone up by 10% in the course of 2016-2018).

384. The representative of the ETUC noted that as regards the first ground, there were positive developments concerning the levels of benefits. As regards the second ground, the representative of the ETUC recalled that in 2009 a warning was adopted and there was no change to this situation.

385. The representative of Spain observed that if the benefit in question (RSA) has as its objective the insertion of the worker concerned, it is justified that its eligibility requires that there be stable residence. The representative of Ireland asked what was the level of assistance that can obtain a person that has been resident in the country for less than 5 years. The Secretariat recalled in this regard that according to the case law of the ECSR, it is not the requirement of stable residence per se that could create a problem of conformity of the national situation with the Charter, but the length of prior residence, required for eligibility for RSA, which, in France is 5 years.

386. As regards the first ground, the GC invited the Government to provide updated information in the next report and decided to await the next assessment of the ECSR. As regards the second ground the GC considered that the warning, which had been adopted in 2009 on this ground, still applied and decided to await the next assessment of the ECSR.

## **RESC 13§1 HUNGARY**

***The Committee concludes that the situation in Hungary is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources, including elderly persons, is not adequate.***

387. The representative of Hungary provided the following information:

*As regards the conclusion of the ECSR on the low level of social assistance paid to single persons without adequate means and resources, Hungary can report on the increase of the amount of the old age allowance. The level of other benefits reported earlier has not changed and no corrective measures are foreseen regarding these social benefits. The old age allowance is provided for those who have reached the statutory pension age limit and whose monthly income does not guarantee their subsistence. The amount of the allowance depends on the age, the family status and the monthly income of the beneficiary.*

*As from January 2017, the amount of the old age allowance has been increased by 5% and from 2018 the amount of old age allowance is to be regularly increased/adjusted by the same rate as old age pension amount.*

*From 1st January 2018, the maximum income threshold entitling to old-age allowance has also been increased by 5% and it shall be regularly increased with the adjustment rate applied in case of old age pension amount.*

*The person concerned is entitled to the allowance if he/she has reached the pension age limit applicable to him/her and if monthly per capita income calculated on the basis of his/her income together with that of his/her spouse or cohabiting partner living habitually in the same household does not exceed HUF 24 955 (from 1st January 2018). Currently this amount equals roughly 78 EUR.*

*Single persons are entitled to the benefit if the monthly income does not exceed HUF 29 355 which equals approximately 92 EUR (from 1st January 2018). Single persons over 75 are entitled to the benefit if their monthly income does not exceed HUF 39 630 (from 1st January 2018), approximately 123 EUR.*

*In each case the monthly allowance paid supplements the insufficient income to the threshold amount mentioned above.*

388. The representative of the ETUC noted that there were positive news in relation to increases in the amounts of benefits but the Recommendations on Hungary of the European Semester point out that the situation is still worrying.

389. In reply to the question from the representative of the Netherlands regarding legislative developments, the representative of Hungary noted that the Social Act has been amended and now provides that allowances must be adjusted every year.



390. The representative of the ETUC also raised the issue of decentralisation of the granting of some benefits, which creates another doubt about what people concerned will get, when it comes to discretionary powers of local authorities.

391. The representative of the Netherlands also underlined that the Recommendations on Hungary referred not only to the coverage, but also to the adequacy of benefits.

392. The representative of Hungary said that the decision was to bring it as close as possible to recipients through local governments. The Government monitors the efficiency of social assistance. The social systems in many countries are subject to many changes.

393. The Chair asked for clarification whether decentralisation only concerned the management of funds or also the setting of the levels of benefits. The representative of Hungary said that this information would be provided in the next report, including whether the amounts of benefits are fixed by local authorities and the decisions to grant are left to the discretion of local authorities.

394. The GC ask the Government to provide clarification in the next report concerning the discretion of local authorities as concerns the amounts as well as access to benefits. It decided to await the next assessment of the ECSR.

### **RESC 13§1 LITHUANIA**

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

- ***the levels of social assistance and of social assistance pension are not adequate***
- ***nationals of other States Parties are subject to a length of residence requirement of five years to become eligible for social assistance***

395. The representative of Lithuania provided the following information on the first ground of non-conformity:

#### ***“Level of cash social assistance***

*First of all, I would like to note, that provision of cash social assistance is regulated by the Republic of Lithuania Law on Cash Social Assistance for Poor Residents. Pursuant to the Law, poor residents shall be paid social benefit and compensations for heating, hot and drinking water expenses. Cash social assistance is provided taking into consideration not only the received income, but also owned property. Social benefit and compensations are granted to poor residents, if the value of their property does not exceed the average property value set for their residential area.*

*Social benefit, compensations for heating, drinking and hot water expenses, social support for pupils according Lithuania Law on Social Assistance for Pupils, etc. rates depend on the amount of the State Supported Income that is approved by the Government resolution. As*

*from 2018, the amount of the State Supported Income has been increased from EUR 102 to EUR 122.*

*Detailed statistical data regarding the amount of social benefit and compensations and recipients is provided to the Committee in writing.*

*State guaranteed cash social assistance is consistently provided with regard to the national social and economic development and financial capacity of the state.*

*It is important to note, that in 2017 the methodology for the calculation of the amount of minimum consumption needs was approved by the order of the Minister of Social Security and Labour. Following this methodology, the amount is calculated annually by taking into account food and non-food costs. Amendments of the Law on Determination of Social Security Benefits Indicators and Basic Amount of Punishments and Penalties has introduced basic social indicators, including basic social benefit and state supported income that will be linked with the amount of minimum consumption needs from 2019. Linking of social indicators would affect changes in adequacy of social benefits because, e.g. with the prices of food and commodities rising, the amounts of the support would grow accordingly.*

*Seeking to improve the implementation of cash social assistance, including assurance of adequacy of cash social assistance, amendments of the Law on Cash Social Assistance for Poor Residents came into force on 1 January 2018. According to these amendments, part of the work income of working person is not included in a family income establishing person's (family) right to social assistance. These amendments have helped to create more favourable conditions for residents to receive social assistance and have affected the level of benefits. Due to these amendments the average amount of social benefit has increased from EUR 65.5 to EUR 81.0 per person per month.*

#### **Social assistance pension**

*Social assistance pension is granted and paid in accordance with the Law on Social Assistance Pensions of the Republic of Lithuania. There are three types of social assistance pensions: disability pensions, old-age pensions and orphan's pensions.*

*The purpose of social assistance benefits is to ensure the minimum incomes in case of disability and old age, for those who do not receive or receive very low social insurance pension.*

*As from 1 January 2018, social assistance pension base has been increased from 112 to 130 EUR. The amount of social benefits, depending on the type of the benefit and the category of the recipients, have increased from 9 EUR (orphan's social assistance pension) up to 40,5 EUR (social assistance disability pension). Old-age social assistance pension has increased by 16,2 EUR (from 100,8 to 117 EUR).*

*As from 2019, when the amendments of the Law on Social Assistance Pensions will come into force, the smallest social assistance old-age pensions will be raised. Social assistance pensions will be raised for more than 5 thousands recipients.*

**396. The representative of Lithuania provided the following information on the second ground of non-conformity:**

*The Law on Cash Social Assistance for Poor Residents is applied to persons who live in the Republic of Lithuania. That includes citizens, aliens holding a permit of a long-term resident and citizens of a European Union or EFTA countries or their family members who has been issued the documents granting or confirming the right of residence in the Republic of Lithuania and who live in the Republic of Lithuania not less than three months. Requirement to live not less three months in the Republic of Lithuania is not applied for citizens of the*

*European Union or EFTA countries or their family members, as well as aliens who are granted asylum or temporary protection in the Republic of Lithuania.*

*It should be noted, that persons are entitled to cash social assistance are not necessarily that they have to be permanent residents in the Republic of Lithuania.*

*Nationals of other States Parties are treated equally as citizens of the Republic of Lithuania because all of them must comply with the same requirements stated by the Law on Cash Social Assistance for Poor Residents. The Law does not contain provisions stipulating that cash social assistance may be reduced due to the reason that a recipient is an alien or a stateless person. Taking into consideration that social benefit and compensations for heating, hot and drinking water expenses are non-contributory cash benefits, i.e. it does not depend on amount of paid taxes, the requirement for aliens to hold a permit of a long-term resident of the Republic of Lithuania to reside in the European Community is adequate.*

*However, it should be noted that, in accordance with the existing legal regulation, persons who are temporarily residing in the Republic of Lithuania and don't have right to get cash social assistance accordance to the Law are not left without any support. Municipal administrations have the right to allocate cash social assistance from their budgetary resources to persons lawfully residing in the Republic of Lithuania.*

*Bearing in mind the above mentioned recent developments, it should be noted that Lithuania has made significant improvements regarding the better implementation of the Article 13§1 of the European Social Charter in law and in practice.*

397. The GC took note of the positive developments, especially as regards moving closer to the threshold of 50% as regards the level of social assistance. It invited the Government to provide all the necessary information in the next report and decided to await the next assessment of the ECSR.

## **RESC 13§1 REPUBLIC OF MOLDOVA**

***The Committee concluded that the situation in the Republic of Moldova is not in concormity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources, including elderly persons is not adequate.***

398. The representative of the Republic of Moldova provided the following information:

*The level of social assistance paid to a single person without resources is not adequate and/or nationals of State Parties are subject to a length of residence requirement to be entitled to social assistance*

*In the period of 2016-2018 several measures have been taken by the Government of the Republic of Moldova for insuring every person who is without adequate resources and who is unable to secure such resources is granted adequate assistance and care necessitated by his/her condition.*

*In April 2017 the level of the state minimum guaranteed monthly income (SMGMI) was raised from 900 lei to 961 lei, in April 2018 the state minimum guaranteed monthly income was increased up to 1025 lei. Since 2017 according to the Government Decision nr. 153 dated 15 March 2017, the minimum guaranteed monthly income is indexed annually on April 1, according to the consumer price index for the previous year. For the cold season of the year the state minimum guaranteed monthly income is multiplied by 1.6.*

*In 2016 approximately 90.000 families or 207000 people benefited by at least one social payment; in 2017 the figure went up to 90.757 families or 208741 people.*

*At the same time, the Government has raised the amount of aid for the cold period from 315 to 350 lei, this regulation will be applied since 1 November 2018. In 2016 - by at least one aid for the cold period payment benefited 194.500 families (330650 people), and in 2017 – 200.876 families (341489 people), including single elderly persons, the average size of the family benefiting of this benefit is about 1.7 people.*

*Since 1 of July 2018 a new "Monetary Support" service was introduced by the Government of the Republic of Moldova (Governmental Decision nr. 716/2018) aimed to provide additional financial support to socially vulnerable families / people to overcome the difficulties and prevent social exclusion. Monetary support is granted in a single payment or a monthly payment of up to 6.000 lei and will be fixed for a term not exceeding six months.*

*Similarly, monetary support can also be offered to disadvantaged people / families who receive insignificant social assistance and can't overcome the difficulty they face, such as fires, natural disasters, etc. The money will be granted to beneficiaries for home reparation, adapt it to the needs of the person, the purchase of fuel for cooking and heating in winter time and as well as other needs set out in the individualized assistance plan.*

*Financial resources allocated for "Monetary Support" service operation in 2018 is about 14 million lei. Around 2300 families/persons have benefited from this service in 2018.*

*People with severe disabilities from childhood and disabled severe visual impairment from 1 September 2018 have been benefited additionally, to social care services at home and, by the allowance for care, support and supervision in the amount of 820 lei per month. Allowance for care, support and supervision is an additional source of income for beneficiaries, enabling them to cover the running costs and offer additional care activities. The expenditures for granting the allowances given to the 268 beneficiaries for four months of 2018 are about 879 thousand lei and have been covered by the state budget.*

*On the access to medical services, the Republic of Moldova would like to inform that the compulsory medical insurance coverage in 2017 increased by 1.1 percentage points and reached 86.9% of the population who have access to primary healthcare, including subsidized medications; specialized out-patient healthcare; community and home healthcare; emergency pre-hospital healthcare; hospital healthcare. Access to primary healthcare; community and home healthcare and emergency pre-hospital healthcare is insured for everybody regardless the person is medically insured or not and of income level. Law on Mandatory Health Insurance ensured that families living below the poverty line, even if formally are self-employed, would automatically receive fully subsidized health insurance.*

*Also, the Republic of Moldova informs that according to World Bank Report "Moldova Public Expenditure Review, Improving Public Health Expenditure Efficiency" what has been produced in 2018, the level of Out-of-pocket (OOP) becomes below 40 per cent of total health expenditure (THE), most of which is paid for drugs. Thus, inequalities in utilization of health care services were somewhat reduced.*

*In this regard, the following actions have been taken:*

- 1. Modification and expansion of the list of compensated medicines up to 134 common international names;*
- 2. Introduction of treatment with compensated medication in day-care, procedure facilities and at home;*

3. *Since 2017, children aged 0-18 years old received compensated medicines. Until 2017, only children up to 5 years of age received such medications.*

*The Republic of Moldova would like to inform the Committee that the country does not accept the Article 13 §4 on applying the provisions referred to in paragraphs 1, 2 and 3 of article 13 on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.*

*The Republic of Moldova acknowledges that the situation in the country is not in conformity with Article 13 §1 on the grounds that: the level of social assistance paid to a single person without resources, including elderly persons is not adequate and the right to medical assistance is not guaranteed to all persons without resources, but the Government has taken concert actions for insuring every person, including elderly persons, who is without adequate resources and who is unable to secure such resources is granted adequate assistance and care necessitated by his/her condition taking into account the available state resources.*

399. The representative of the ETUC noted that there have been many increases in the levels of benefits. Besides, the system has worked more efficiently as regards the coverage of families as more families are now receiving assistance, but it seems that there are still many people in need of assistance who do not get it. It seems, considering the general picture of the state, that there are doubts as to the sustainability of the system, if the number of recipients is increased.

400. The Chair noted the positive evolution as regards certain benefits, but he also underlined that the increased number of beneficiaries also reveals the general state of the population.

401. The GC invited the Government to continue its efforts to attain to the 50% threshold as regards the level of social assistance.

### **RESC 13§1 MONTENEGRO**

***The Committee concludes that the situation in Montenegro is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance is manifestly inadequate.***

402. The representative of Montenegro provided the following information:

*Regarding level of social assistance, the Law on Social and Child Protection proscribes, in Article 38, alignment of the basis and amount of financial assistance and it shall be aligned semi-annually (on 1st January and 1st July of the current year) with the living costs trends and the average salary of employees on the grounds of the statistical data for the previous semi-annual period, in the percentage which represents the amount of half the percentage of growth living costs and half the percentage of growth in salaries. But if there is decrease in the cost living and in salary, which would lead to negative alignment, than the amount shall not be the subject of the alignment.*

*According to this article the last alignment was done in July 2018 by adopting the Decision in which amount of financial assistance is increased. It means that Law proscribes the lowest*

amount which is 63,50 € for individual, but with this alignment this amount is increased for 6,5% and now it is 67,20€.

By this Decision it is also increased the amount of financial assistance for all other family categories and other financial allowances ( figures will be put in our next report).

On Committee asking we are informing on other/additional benefits which could be given to the beneficiary of the financial assistance. Meaning, during the year he/she-beneficiary of the right to financial assistance, can exercise the right to non-recurring financial assistance, for which amount is not proscribed by law and which average amount is 150-250€, as well as current cash assistance for urgent daily needs in the amount of 10-20€. The beneficiary is provided with the right to funeral expenses in the amount of around of 335€ paid to person who bears the costs. A beneficiary has also the right to the subsidy of monthly electricity bills in the amount of 60% for monthly receipts below 50€ and for the receipts above 50€ in a fixed amount of 24€. Average amount of total financial assistance for individual may be around 150€.

One data more, in 2017, for exercising rights and activities in the area of social and child care, the total of 92 million euros was allocated from the state budget.

New alignment will be in January next year and we will take to account comments and conclusions of the ECSR regarding level of financial assistance to the persons in need.

403. The GC took note of the information provided and decided to await the next assessment of the ECSR.

## **RESC 13§1 PORTUGAL**

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

- **the level of social assistance paid to a single person without resources is not adequate;**
- **nationals of States Parties are subjected to a length of residence requirement of one year to be entitled to social assistance**

404. The representative of Portugal provided the following information on the first ground of non-conformity:

*During the economic and financial crisis, as referred to in the conclusions on Portugal, the Social Integration Income (RSI) was in fact subject to legislative changes (changes in the reference value and the scale of equivalence) which resulted in a decrease in the value of the RSI. In recent years (2016; 2017 and 2018), these changes have, however, been progressively reversed in order to gradually reintroduce more adequate levels of coverage by the RSI and also improve the amounts.*

*In this context we would like to identify the main changes that were put in place by new legislation: i) through Decree-Law no. 1/2016 of January 6, the **applicable equivalence scale** was first amended (the OECD's modified equivalence scale was replaced by the OECD's simple equivalence scale ), which resulted in an increase in the percentage of the amount of RSI (social integration income) to be allocated for each individual besides de holder above 18 years old, from 50% to 70% of the RSI reference value, and for each individual less than 18 years old, from 30% to 50% of the reference value of the RSI. In the same law, the social integration income **reference value was also updated**, and in 2016, 25%*

of the decrease in 2013 was replaced with the RSI reference value 43.173% IAS (Social Support Index), i.e. € 180.99 ii) In January 2017, through Ordinance No. 5/2017, of January 3, **a replacement of a further 25%** of the cut verified in 2013 was also made, setting the RSI reference value at € 183.84 . In 2018 (Ordinance No. 52/2018, of February 21, a further 25% of the cut was replaced/correct once again made, in order to reinforce the effectiveness of this social benefit as a measure to combat extreme poverty and social exclusion .

These three successive changes means that the maximum of this benefit value currently is translated in (the sum of the) following values, for each household element: by the holder, 186.68 € (100% of the value of the RSI); for each major individual, € 130.68 (70% of the value of the RSI), for each individual minor, € 93.34 (50% of the value of the RSI).

Parallel to the increase in the reference value of the RSI and in its equivalence scale, some allocation rules were also adjusted to reduce its bureaucracy, in order to decrease the non-take-up of this social benefit (not all individuals to whom the law recognizes eligibility requested or renewed the provision).

It's important to highlight that when analyzing the current RSI reference value, it should be noted that this social benefit integrates a network, at the same time more complex and broader, of guaranteeing of social minimums, which guarantees to those in need, incomes closer to the monetary poverty line, mitigating both the severity of poverty and material deprivation.

First, the RSI is cumulative, with some social benefits: This is the case of family allowance for children and young people, Prenatal family allowance, Disability bonus, Social benefit for Inclusion - Basic component, Supplement for dependency.

The beneficiaries of the RSI can also, simultaneously benefit from the old-age pension, widow's pension, orphan's pension, solidarity supplement for the elderly, parenting allowances and adoption, sickness allowance, unemployment allowance and other household income subsidies and public housing subsidies, on a regular basis. These benefits are, however, considered as income and, as such, taken into account in the condition of IHR resources.

In addition to these social benefits, the beneficiaries of the Social Integration are still eligible for programs and social support that can be attributed under the social action subsystem. Social support for the most disadvantaged groups within the subsystem includes social services and facilities, specific programs to combat poverty, social dysfunction, marginalization and social exclusion, cash benefits, occasional and exceptional benefits, food, housing, and health support. We can mention: i) POAMC (FEAD) - Programme to support the one most in need - ;ii) Proocop – protocol with social institutions in order to improve social answers; iii) National Strategy for the Integration of those with no home.

Unfortunately some of this support is not measured / translated into numbers as far as the benefits are concerned/also for the purpose of monitoring and measuring poverty..

Social action is developed by the State together with local authorities and private non-profit institutions, according to the priorities and programs defined by the State.. In fact social services or facilities aimed at the most deprived persons and families vary according to situations and needs, with 9 standard responses: social assistance / support; self-help groups; community centers; holiday and leisure centers; canteens and / or social canteens; life support centers; insertion community; temporary accommodation center and food aid (e.g. street teams).

*In the same sense, there are also pecuniary/cash benefits of a possible nature attributed in the context of social action, which are designed to fill deregulated economic situations and contribute to the realization of unavoidable expenses, such as health and social expenses. / or purchase of essential goods and services that may cover multiple areas (food, clothing, housing, health, education, transportation, among others).*

*The granting of these subsidies is obligatorily preceded by an intervention or technical act, in which the social service technician collects the necessary and indispensable information to carry out the social diagnosis on the situation of vulnerability in which the individual / family is. For this purpose, the person / family who, for conjunctural or structural reasons, derive a per capita income lower than the amount of the social pension (€ 207.01 in 2018) is considered to be in economic need. The economic shortage may be momentary, due to the occurrence of an unexpected event (fire, floods, medical treatments, surgeries, unemployment, among others), or persistent, when the experience of a poverty situation is structural (generational poverty cycle).*

*In addition to being an instrument of social action intervention in the prevention and remedying of situations of social and economic deprivation and inequality, exclusion or social vulnerability, the support and social programs developed under the social security system are conjugated and / or conjugal with other public social policies (e.g. housing through household income subsidies, public housing subsidies or social housing) and articulated with the activity of non-public institutions, namely Private Social Solidarity Institutions (IPSS).*

*Thus, even if a vulnerable household does not fulfil the conditions for granting a cash benefit in the context of social action, this aggregate should always deserve the attention of the social services and social assistance services (i.e., the Local Social Action Services) of their area of residence, so that, in an interview with the social service technician, alternatives to support the family can be made available through the resources available in the community.*

*It is also relevant to refer the performance carried out by other sectorial areas, namely health and economy / energy.*

*As an example, all individuals in a situation of proven economic deficiency could benefit exemption from the payment of fees, and access in full free of charge to the health care provided in the services and public entities that are part of the National Health Service (SNS), health centres, hospitals and local health units.*

*In the case of housing, it may benefit from social housing, under a supported tenancy, through the Institute of Housing and Urban Rehabilitation, I.P. (IHRU) or local authorities, as well as a reduction in energy supply to this dwelling, corresponding to 33.8% in the electricity tariff and 31.2% in the natural gas tariff - **called the social energy tariff**: The social energy tariff is applicable to the economically most vulnerable households, I mean those who benefit from social assistance allowances: Solidarity supplement for the elderly, Social integration income, Unemployment social allowance, Family allowance, Social security disability pension, social old-age pension) or, in the case of electricity, for total annual income equal to or less than € 5,808, plus 50% for each element of the household that has no income, up to maximum of 10.*

*Thus, an isolated adult individual, without any income, beneficiary in its own right of the RSI, will be able to enjoy the social supports complementary to the 186.68 € that he receives from RSI, referred above.*

*Considering what have been said, we think that in the analysis of the RSI reference value for an isolated individual, this benefit should not be considered by itself, since it constitutes a*



*minimum level to which support of another nature and of other sectorial areas. It is this simultaneously broader and more complex network of social minimum guarantees, which allows isolated individuals, but also families, in situations of proven economic and financial need, to obtain incomes closer to the monetary poverty line, mitigating both the severity of poverty or the material deprivation rate.*

405. The representative of Portugal provided the following information on the second ground of non-conformity:

*Firstly it should be noted that under Article 40 of Law 4/2007, of January 16, which approved the Social Security Law, access to benefits of the solidarity subsystem is subject to condition of residence in Portugal, a condition that applies to all persons who apply for it, whether or not they are nationals. The demonstration of the bond defining integration in society must be stronger than the criteria of nationality.*

*In the specific case of non-contributory benefits, which are a continuous concession, aimed at (re) insertion and minimum income guarantee, such as the Social Integration Income (RSI) and Social Supplement for the Elderly (CSI), they must require a more sustained link, demonstrating effective integration in the community.*

*When establishing minimum length of stay in national territory for the granting of benefits of a continuing nature, the legislator should avoid granting it to any person who enters the territory and who, for that only reason, is entitled to any support for the members of the community. The transfer of resources among citizens requires demonstration of an effective link with the community that transfers these resources (solidarity principle).*

*Notwithstanding we would like to inform that steps have already been taken in relation to the minimum periods of legal residence in the national territory for the purposes of granting the RSI, applicable either to national citizens or to citizens who are nationals of a non-member state of the European Union, and changes were made to the legal regime of the RSI through Decree-Law no. 90/2017, of July 28.*

*It is also being examined to what extent the conditions of citizens of other States signatory to the Charter may be equated with a view to making the situation consistent with this provision of the Charter.*

406. As regards the first ground, the ETUC noted that the information about increases in social benefits was presented, but however nothing was said about monetary values of additional benefits. The representative of Portugal announced that concerning other benefits, e.g. energy, it was more difficult to give figures on the additional support that an individual receives.

407. On the first ground of non-conformity, the GC invited the Government to provide information in the next report, in particular as regards the monetary value of additional benefits and decided to await the next assessment of the ECSR.

408. As regards the second ground, the GC noted the progress made with the adoption of the Decree 2017 which has removed one year residence requirement for eligibility to social assistance. It asked the Government to provide this information in the next report and decided to await the next assessment of the ECSR.

## **RESC 13§1 SERBIA**

***The Committee concludes that the situation in Serbia is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources is not adequate.***

409. The representative of Serbia provided the following information:

*The Government of the Republic of Serbia has adopted the Employment and Social Policy Reform Paper in 2015. This document is a strategic document in the field of employment and social policy. In this policy paper the Government has set strategic goals in social welfare system for the period of 5 years – until 2020.*

*Among these goals is the complete reform of the social assistance system. The first phase of the reform is the reform of social assistance for families with children. The new Law on Financial Assistance to Families with Children was adopted in July this year.*

*The second phase of the reform is the reform of other forms of social assistance, and it includes the measures which will contribute to increasing of the minimum social assistance for families and for a single person.*

*The Government of the Republic of Serbia has adopted the Law on Amendments to the Law on Social Protection. This Law contains provisions that are foreseen more adequate coverage of social assistance, more often alignment with the cost of living and increasing of the minimum level of social assistance.*

*It is expected that the Law will be on the agenda of the National Parliament in November or by the end of 2018. We hope that the future assessment of the ECSR will be positive. We will provide all detailed information in our next report.*

410. In reply to the question by the Chair concerning the levels of assistance foreseen in the draft law, the representative of Serbia noted that around 50% increase was planned.

411. The GC took note of the reforms underway, in particular of the draft new legislation, asked the Serbian authorities to provide all the necessary information in the next report and decided to await the next assessment.

## **RESC 13§1 SLOVAK REPUBLIC**

***The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 13§1 of the Charter on the ground that the level of social assistance paid to a single person without resources is not adequate.***

412. The representative of the Slovak Republic provided the following information:

*In order to comply with this provision of the Charter, the Slovak Republic has started a series of legislative and non-legislative steps, in close cooperation with the social partners, since the last conclusions on this article. Allow me to briefly highlight the most important features of this rather substantial re-structuring of the system of social assistance.*

*As is mentioned in the report, there are several benefits to which everyone is entitled, if they find themselves without adequate resources. During the reference period, these benefits were material need allowance, activation allowance, protection allowance, housing allowance and separate individual allowance.*

*The most important development is that recently the Slovak Republic has started to amend the legislation which sets the amount of these benefits to make them higher and it also introduced new allowances. For example, as of July 1, 2018, the level of activation allowance has been increased by 100% making it twice as high than it previously was for the targeted group of persons. Similarly, the material need allowance shall be increased - the amendment of the respective act is going to be approved by the Government in the coming weeks, in accordance with the Legislative Plan of Work of the Government. The same applies for the other allowances as well and the respective legislative acts are to be amended in the coming weeks.*

*The category of single persons also includes single older persons, who are especially at a higher risk of poverty. To support them, the Slovak Republic has in 2016 introduced the so-called minimum pension as a guaranteed way to provide older persons with adequate resources. Taking into account several proposals of the social partners, it shall be further increased as of January 1, 2019, to ensure that older persons, especially those who are living on their own, have adequate resources for a decent standard of living.*

*Another piece of legislation that is currently being developed is a law on a new type of housing allowance. The aim of this act is to ensure availability and adequate quality of social housing for people at risk of poverty or social exclusion. This allowance shall constitute a new form of social assistance and is in the approval process, in accordance with the new State Housing Policy of the Slovak Republic. The new housing allowance shall be fully cumulative with the already existing housing allowance, so a single person is going to be able to apply for both of them.*

*As of May 1, 2018, the Slovak Republic has adopted a new Act on Social Economy which governs the social economy sector and introduces measures to increase employability of persons at risk of poverty. The Slovak Republic believes that it is very important to support these persons with financial resources, but it is equally important to motivate them to try to solve their unfavourable situation. The aim of the material need assistance is to motivate persons to find suitable employment, increase the overall income of their household and lower the risk of poverty. This can be achieved mainly by supporting active labour market participation, which is why the Slovak Republic has adopted this new act.*

*Another group of newly introduced measures is represented by non-legislative steps taken to support persons in material need. For example, within the framework of the new Operational Programme of Food and Basic Material Assistance, the persons who are in material need are provided with the so-called "food packages" which contain basic groceries on a regular basis.*

*The Ministry of Labour, Social Affairs and Family has recently introduced another individual measure to support persons in especially negative social situation in the form of an individual financial grant amounting to 800 EUR for a single person, for which these persons can apply.*

*I would like to take this opportunity to inform you that even though these measures been in force just for several months, there has been a substantial decrease of persons dependent on the material need assistance as was reported by the Central Office of Labour, Social Affairs and Family.*

*It also has to be stated that each person in material need is able to apply for benefits paid by the municipality which they live in, because each municipality has a budget dedicated to solving unfavourable situations of their citizens. These benefits constitute a bonus to the allowances paid from the state budget.*

*As a side-note, I would like to point out that we have also recently increased the levels of family-oriented allowances and introduced new family-oriented allowances. All these amendments have already been adopted are in effect from July 1, or September 1 of the current year. But because this ground of non-conformity deals with single persons mostly, I shall not prolong my presentation.*

*I would like to conclude by saying that the Slovak Republic fully supports the most vulnerable groups of persons and their well-being. That is why it has recently adopted a lot of new legislative and non-legislative steps to improve the situation of these persons. Since the beginning of the current year we have adopted a number of amendments to the existing legislation, and also introduced several new acts and measures. Because the information I just presented are new, we will provide all the details in the next report on this provision of the Charter.*

413. The representative of Greece noted that good progress was made in terms of reforms in the field of social security and social assistance, including old age pension and social pension. It remained to be seen whether the minimum levels meet the requirements of the Charter and the European Code of Social Security.

414. The GC noted the progress made in terms of increased amount of benefits and decided to await the next assessment of the ECSR.

#### **RESC 13§1 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**

***The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 13§1 of the Charter on the grounds that:***

- ***the level of social assistance paid to a single person without resources is not adequate;***
- ***nationals of States Parties lawfully resident are subject to a length of residence requirement of five years for entitlement to social assistance***

415. The Representative of "the former Yugoslav Republic of Macedonia" provided the following information on the first ground of non-conformity:

***The reply to this particular ground of non-conformity will consist of two parts:***

- ***part on the latest developments and current situation in respect to the level of SA, its gradual increase over time ....***
- ***announcement of the planned reform in the social and child protection systems, to be implemented as of next year (2019).***

*The social protection, as an area of particular public interest in the Republic of Macedonia, is continually monitored, adjusted and adapted both, according to the needs of persons who are in need for social protection, but also to the real and actual possibilities of the system and the state to implement these policies, respecting the international norms and standards in this field.*

*There were a number of legislative and administrative interventions in the last years with the main purpose of further upgrading and improving the system of social protection, through improving the conditions and procedures for exercising social protection rights, better*

targeting of the most vulnerable categories of citizens, improving the social work and delivery of social services etc.

The characteristics and features of the social protection system in the Republic of Macedonia are, already in great details explained and described in the latest one and in the previous National reports, in the sections dealing with these particular provisions of the European Social Charter.

In this intervention, we would like to firstly present the recent developments in respect to the continuous **increase of the amounts of the social financial assistance**.

The following table shows the increase of the social financial assistance amounts since 2007.

**Table:** The amount (in MKD) of the social financial assistance (depending of the size of the household)

year	Number of the members in the household					Increase (%)	
	1	2	3	4	5+		
2007	1,825	2,360	3,005	3,863	4,507		
2008	1,825	2,360	3,005	3,863	4,507	2008 / 2007	0.0 %
2009	2,173	2,811	3,578	4,600	5,367	2009 / 2008	19.1 %
2010	2,140	2,932	3,724	4,516	5,308	2010 / 2009	-1.5 %
2011	2,174	2,979	3,784	4,588	5,393	2011 / 2010	1.6 %
2012	2,223	3,046	3,869	4,692	5,515	2012 / 2011	2.3 %
2013	2,334	3,198	4,062	4,927	5,791	2013 / 2012	5.0 %
2014	2,451	3,358	4,265	5,173	6,081	2014 / 2013	5.0 %
2015	2,696	3,358	4,692	5,690	6,689	2015 / 2014	10.0 %
2016	2,831	3,879	4,927	5,975	7,023	2016 / 2015	5.0 %
2017	2,831	3,879	4,927	5,975	7,023	2017 / 2016	0.0 %
2018	2,871	3,933	4,995	6,057	7,120	2018 / 2017	1.4 %

2018 / 2008	57.3 %
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**The presented table shows that in the period of the last 10 years, 2008 to 2018, the amount of the social financial assistance was increased for over 57%.**

Of course, similar to the situation in many other countries, it is important to emphasise that, besides the existence of the social assistance financial benefits, the system of social protection also provides for a number of other benefits (in cash or in kind) which are provided to the socially vulnerable persons and the persons exposed to certain social risks, with the purpose of improving their situation and providing assistance in overcoming the risks.

These existing rights and benefits are already presented and described in our submitted Report (Programme for subsidizing energy consumption, Programme for conditional cash transfer/benefit for secondary education, various measures (ALMM) subsidizing the employment of unemployed social assistance beneficiaries and their inclusion into the labour

market, exemption from payment of participation for the health/medical services for the children from households – social assistance beneficiaries etc.)

### **Current Reform of the Social Protection System**

The Ministry of Labour and Social Policy is currently in the process of a very important and comprehensive reform (and redesign) of the systems for social and child protection.

One important part of the reform will be the redesign and adjustments of the benefits provided by the state, tailored to the actual needs of the citizens and designed to help them getting out of the poverty.

The social financial assistance will be reformed and upgraded into the so called, **guaranteed minimum assistance**. The beneficiaries will receive an amount that will allow them to meet the minimum subsistence needs, which was not always the case until now, with the existing system of social assistance was not the case.

At the same time, the beneficiaries will be additionally supported to complete their education and acquiring skills that will make them competitive at the labour market.

In order to achieve one of the most important priorities of the current Government, i.e. the eradicating the child poverty, the package of the financial social assistance we complemented with the easier access to the child allowance. The right to child allowance will now be provided to families with children who have low incomes, without the requirement to have an employed member within the family, a requirement that has so far been crucial in exercising the right to child allowance.

The reform will provide grouping of the different rights (benefits) in order to increase the coverage of households and persons at risk, and with the purpose of better targeting and tailoring the rights to their actual needs, significant increase in the coverage of households living in poverty and substantial increase in the amounts of assistance benefits paid to the households.

In other words, the new rights will only be realized as a **family package of rights**, responding to the specific needs of the household and the citizens.

Persons/households at risk of poverty will be granted with the so called **guaranteed minimum assistance**. Low-income families with children will be able to receive a **child allowance** and **educational allowance** (for children regularly attending elementary and secondary education). Additional benefit will be provided for subsidizing the energy consumption (during the 6 months in the year – oct/mar)

Additional set of rights/benefits will be provided for persons (household members) with **disabilities**. (four specific rights: allowance for disability, allowance for assistance and care from another person, permanent allowance, salary compensation for part-time work due to care of a child with physical or intellectual disabilities).

We strongly believe that with these planned reforms in the field of social and child protection, the situation in the country in terms of providing better protection for the citizens in need and in fighting poverty will be substantially improved, .... and thus, also leading to the very positive developments in relation to the conformity with Article 13 of the European Social Charter.

416. The representative of “the former Yugoslav Republic of Macedonia” provided the following information on the second ground of non-conformity:

*Regarding the application of this particular provisions of Article 13 of the European Social Charter, we would like to refer to the current legislative acts that provide for the possibilities for the foreigners that legally reside on the territory of our country, such as the **foreigners with permanent residence permit, asylum seekers, persons with the status of recognized refugees, persons under subsidiary protection**, to exercise their rights from the area of social protection, access to labour market, education and health protection.*

*As regards the **rights to social protection**, the persons under subsidiary protection, recognized refugees and the foreigners with permanent residence in the country, have access to these rights on an equal footing with the Macedonian citizens (under the same conditions and without any special limitations in this respect). Of course, the asylum seekers and the persons with temporary residence permit also have access to certain services, such as the institutional accommodation, one-off financial assistance.*

*The Law on social assistance, as regards the foreign citizens without permanent residence on the territory of the Republic of Macedonia, gives possibility to these persons, in the cases of urgent need of assistance, accidents, acute illness that require hospital treatment and similar cases, to be able to use the right to one-off financial assistance or assistance in kind, which will ensure the necessary assistance to the person concerned in overcoming the consequences of the current unfortunate situation.*

*Another important aspect to be mentioned is the fact that the foreign citizens with temporary residence, who regulate their stay in the country on the basis of marriage, can exercise their social protection rights as a co-beneficiary of the bearer (main beneficiary) of the particular right who is either Macedonian citizen or a foreigner with permanent residence in Macedonia.*

417. The GC took note of the information provided, invited the Government to provide updated information in the next report and decided to await the next assessment of the ECSR.

### **Article 14§1 – The right to benefit from social welfare services – To promote and provide services which would contribute to the welfare and development of both individuals and groups in the community**

418. The Secretariat presented the main criteria used by the European Committee of Social Rights to assess compliance with Article 14§1 of the Charter:

*The right to benefit from social welfare services provided for by Article 14§1 requires Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment.<sup>16</sup>*

*Article 14 provides for an individual right for all persons who find themselves in a dependent situation to benefit from services using methods of social work.<sup>17</sup>*

#### Persons concerned<sup>18</sup>

*“Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population, which distinguishes the right guaranteed by Article 14 from “the various articles of*

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<sup>16</sup> Conclusions 2005, Bulgaria

<sup>17</sup> International Federation for Human Rights (FIDH) v. Belgium, complaint No. 75/2011, decision on the merits of 18 March 2013

<sup>18</sup> Conclusions 2009, Statement of Interpretation on Article 14§1

*the Charter which require States Parties to provide social welfare services with a narrowly specialised objective”.*

*The provision of social welfare services concerns everybody who find themselves in a situation of dependency, in particular the vulnerable groups and individuals who have a social problem. Social services must therefore be available to all categories of the population who are likely to need them. It has identified the following groups: children, the elderly, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts, battered women and former detainees.*

*The list is not exhaustive as the right to social welfare services must be open to all individuals and groups in the community. It does, however, give an idea of the groups in which the Committee systematically takes an interest because of their more vulnerable situation in the society.”*

*The other provisions of the Charter dealing with social services for specific target groups, including those falling within the scope of Article 13§3, concern – as noted above – services “with a narrowly specialised objective”. When these various provisions have not been accepted by a State Party the situation is examined with regard to social services for the specific target groups concerned under Article 14 (when this article has been accepted).*

#### Types of services<sup>19</sup>

*Social services include in particular counselling, advice, rehabilitation and other forms of support from social workers, home help services (assistance in the running of the home, personal hygiene, social support, delivery of meals), residential care, and social emergency care (shelters).*

*Issues such as childcare, child minding, domestic violence, family mediation, adoption, foster and residential childcare, services relating to child abuse, and services for the elderly are primarily covered by Articles 7§10, 16, 17, 23 and 27. Measures to fight poverty and social exclusion are dealt with under Article 30 of the Charter, while social housing services and measures to combat homelessness are dealt with under Article 31.*

#### Quality of social services<sup>20</sup>

*Under Article 14§1 the Committee reviews rules governing the eligibility conditions to benefit from the right to social welfare services (effective and equal access) and the quality and supervision of the social services as well as issues of rights of beneficiaries and their participation in the establishment and maintenance of social welfare services (Article 14§2). Persons applying for social welfare services should receive any necessary advice and counselling enabling them to benefit from the available services in accordance with their needs.<sup>21</sup>*

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<sup>19</sup> Conclusions 2005, Bulgaria

<sup>20</sup> Conclusions 2005, Bulgaria

<sup>21</sup> Conclusions 2009, Statement of Interpretation on Article 14§1



*The right to social services must be guaranteed in law and in practice. Effective and equal access to social services implies that:*

- An individual right of access to counselling and advice from social services shall be guaranteed to everyone. Access to other kind of services can be organised according to eligibility criteria, which shall be not too restrictive and at any event ensure care in case of urgent need;*
- Access to social services should be guaranteed to those who lack personal capabilities and means to cope. The goal of welfare services is the well-being, the capability to become self-sufficient and the adjustment of the individual and groups to the social environment;*
- The rights of the beneficiary shall be protected: any decision should be made in consultation with and not against the will of the client; remedies shall be available in terms of complaints and a right to appeal to an independent body in urgent cases of discrimination and violation against human dignity;*
- Social services may be provided subject to fees, fixed or variable, but they must not be so high as to prevent the effective access of these services. For persons lacking adequate financial resources in the terms of Article 13§1 such services should be provided free of charge;*
- The geographical distribution of these services shall be sufficiently wide;*
- Recourse to these services must not interfere with people's right to privacy, including protection of personal data.*

*Social services must have resources matching their responsibilities and the changing needs of users. This implies that:*

- staff shall be qualified and in sufficient numbers;*
- decision-making shall be as close to users as possible;*
- there must be mechanisms for supervising the adequacy of services, public as well as private.*

419. Finally, the Secretariat provided general key figures on ECSR conclusions on Article 14§1:

- States Parties out of 28 were found to comply with the general requirements of Article 14§1.*
- 10 States were in violation of Article 14§1 on account of restrictions to access by foreign nationals (Azerbaijan, Hungary, Latvia, Poland) or of shortcomings concerning specific services (Belgium). In half of these situations, the finding of non-conformity resulted from a repeated lack of information, in particular as to the adequacy of social services to meet users' needs (Austria, Bulgaria, Ireland, Portugal, Turkey).*

420. Following the presentation by the Secretariat, the representative of the Netherlands requested the floor and asked a clarification on why in the 4 conclusions of non-conformity to be discussed on Article 14§1 (Poland, Azerbaijan, Hungary and Latvia) there is a reference to an excessive length of residence requirement as for

Article 13, but there is not specific reference in Article 14§1 on equal access to social services as it is for example on Article 13§4(equal footing).

421. The Secretariat explained that, while it is correct that there is not a specific reference in Article 14 to access to social services on equal basis or to non-discrimination issues, these cases have been interpreted by the ECSR (since 2005) always closely linked to Article 13§3 which refers to social services of a narrowly specialised objective (Conclusions 2009, Statement of Interpretation on Article 14§1). Moreover, as also pointed out by the Greek and ETUC representatives, all rights set forth in the Charter are also subject to the non-discrimination clause set in the preamble (1961 Charter) and in Article E (Revised Charter)<sup>22</sup>. Finally, the Secretariat recalled the conclusions XVIII-1 (2006) Czech Republic on Article 13§1 were the length of residence requirement was considered excessive, *mutatis mutandis* see Conclusions XVII-2 (2005), Poland, on Article 14§1<sup>23</sup>.

422. The representative of the Netherlands thanked the Secretariat for the description, but asked that this issue needed further clarification and that should be discussed in the next GC Bureau meeting in November and brought up to the next joint GC-ECSR bureaus meeting in January.

423. The Chair then started the examination of the cases of non-conformity on Article 14§1.

*Ground(s) of non-conformity to be examined:*

**Art. 14§1 – Lack of access to social services for all**

#### **RESC 14§1 AZERBAIJAN**

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

424. The Secretariat recalled that the situation was not in conformity for the second time.

425. The representative of Azerbaijan provided to the GC the following information:

*One of the major priorities of the on-going reforms in the field of social services is to ensure the compliance with advanced world experience and international development trends.*

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<sup>22</sup> “enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin, health, association with a national minority, birth or other status”

<sup>23</sup> Conclusions XVIII-1 (2006), Czech Republic: “The Committee notes that under Article 13§1 of the Charter, any person lawfully residing in the territory of another state party to the Charter or the Charter must be entitled to social assistance, including benefits offering a minimum income. The definition of “residence” is left to national legislation and a length of residence condition may be applied so long as it is not manifestly excessive (see *mutatis mutandis* Conclusions XVII-2 (2005), Poland, Article 14§1). In this case, the Committee notes that under the aforementioned rules, foreign nationals’ eligibility for social assistance is subject to ten years’ continuous presence in the country. It considers that this period is manifestly excessive and that the situation is not in compliance with Article 13§1.”

*The structure of the social service facility under the Ministry of Labour and Social Protection of Population for persons who reached retirement age was adapted to modern international requirements; the second new five-storey building with 170 rooms was constructed along with major repairs and reconstruction at the facility. Currently, 224 elderly live there under state care. In 2016-2017, 47 elderly residing at the facility returned to their families upon the request of their family members.*

*As of July 1, 2018 outreach services were provided to 8469 lone elderly and persons with disabilities in need of social care by social workers of the local branches of the State Social Protection Fund under the Ministry of Labour and Social Protection of Population.*

*Within the framework of the State Program "Development of Children's Homes and Boarding Schools", major repair and reconstruction works were carried out at two social service facilities for children with disabilities, as well as at 2 Psycho neurological social service facilities. At present, 289 children with disabilities who are not involved in education and 445 persons with disabilities due to acute or chronic mental diseases are provided with social services in the specialized social service facilities under the Ministry of Labour and Social Protection of Population.*

*Implementation of measures to return children from the facilities under the MLSPP to families and raising of children in family environment also plays an important role in the Ministry's activity. As a result of these measures 32 children returned to their families during 2016-2018. At the same time, a number of measures are being taken to prevent children from falling into public institutions. One example is the organization of day care centers by non-governmental organizations in 13 cities and regions of the country. 1,080 children under risk of falling into child care facilities were involved in these centers in 2016-2018.*

*The MLSPP consistently works to improve the rehabilitation infrastructure for the persons with disabilities in line with the latest requirements. After major repair and reconstruction in September 2015 the Republican Disability Recovery Center and in December 2016 the Children's Recovery Center were made operational.*

*Currently, about 11,000 children who lost their parents and are deprived of parental care live in state-run children's institutions. In October 2015, the social institution "Graduate House" under the Ministry of Labour and Social Protection of Population was built. Initially, a 13-storey building with 120 rooms was built and made available for occupation, in December 2016 the second residential building with 125 rooms was built and started to be used, the construction of the third apartment building has started.*

*Within the framework of EU funded Twinning project on "Development of Social Service" implemented during 2015-2017 jointly with the relevant Austrian authorities a new "Social Work" model was developed for the implementation in the country.*

426. In the following discussion, the representative of UK asked to clarify what is considered by the ECSR as "manifestly excessive" in relation to the length of residence requirement and in relation to the Conclusions XVIII-1 (2006) Czech Republic on Article 13§1(see pag.15), if that interpretation only refers to the Revised Charter and not to the 1961 Charter.

427. The Secretariat replied saying that normally in the conclusions of the ECSR on Article 14 there are no precise indications on the length of residence to have access to social services, which can be considered reasonable. However, the ECSR considers excessive to impose a lengthy residence requirement of 1-3-5-10 years according to the different legislations of the Member States concerned and situations

of declared non-compliance.<sup>24</sup> Regarding the second question there is no difference of interpretation between 1961 Charter and Revised Charter. The Dutch representative together with other representatives (IRL, POL, UK, DK) said that they would not agree with ECSR conclusions on Article 14 and reiterated the request to have more clarification and explanation by the ECSR (see also above discussion on pag.15). The ETUC representative together with the Greek representative instead expressed their disagreement and pointed out that should be stressed in the GC report that this is not the point of view of all GC's representatives.

428. The Chair took note of these last interventions and ensured that this issue would be certainly discussed further at the next joint GC-ECSR Bureau meeting.

429. The GC, therefore, took note of the information received from the representative of Azerbaijan and decided to await the next assessment by the ECSR.

### **RESC 14§1 BELGIUM**

**The Committee concludes that the situation in Belgium is not in conformity with Article 14§1 of the Charter on the grounds that there are significant obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs;**

430. The Secretariat explained that the situation of non-conformity dates back to 2009, but that the present conclusion of non-conformity is based on the ECSR's Assessment of the follow-up of the International Federation of Human Rights (FIDH) v. Belgium, Collective Complaint No.75/2011. It also informed that a new assessment by the ECSR on this Collective Complaint is going to be ready by the end of the year on the basis of the information submitted by the Belgium authorities.

431. The representative of Belgium provided to the GC the following information:

*Pour répondre à ce Comité je dois préciser qu'un rapport détaillé sur la non-conformité concernant l'article 14 §1er, pour la période en question (2012-2015, Cycle 2017) a été soumis par la Belgique au CEDS (Comité européen des droits sociaux) le 30 octobre 2017.*

*Dans la mesure où ce rapport n'a pas encore été examiné par CEDS, et qu'il s'agit du même cas de non-conformité (donc des mêmes articles), nous ne pouvons qu'à nous référer à ce rapport qui contient toutes les réponses aux questions posées par le Comité concernant la non-conformité de la Belgique.*

*Cependant, ce dont nous pouvons ajouter quelques nouveautés par rapport à ce dernier rapport déjà soumis que j'ai pu recueillir pour cette séance du Comité. Il s'agit précisément des nouveautés concernant la région Flamande où il y a eu des changements majeurs en 2018.*

*Ainsi, deux évolutions sont importantes à signaler :*

*Premièrement : Depuis début 2018, il existe un nouveau décret sur la politique sociale locale.*

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<sup>24</sup> All residence requirements under Articles 1§4, 10 and 13 are contrary to the Charter. No length of residence requirement is allowed for contributory benefits under Article 12§4.

*Ce nouveau décret entend soutenir les administrations locales dans la mise en œuvre d'une politique sociale locale. L'élément central de ce décret est l'accueil large intégré.*

*En application du décret sur la politique sociale locale, le Gouvernement flamand a donné, le 13 juillet 2018, son accord de principe sur l'arrêté concernant la politique sociale locale. Ce décret concrétise davantage les fonctions et les principes de fonctionnement de l'accueil général large.*

*L'objectif est d'étendre l'accueil large intégré à toute la Flandre d'ici la fin de la législature (2019). Une première phase pilote est déjà achevée. Dans six projets de cette phase, le groupe cible a été spécifiquement défini pour les personnes âgées, les malades (chroniques), les personnes handicapées, les agriculteurs, les jeunes ou les familles vulnérables.*

*En juin 2018, une deuxième série de projets a été lancée, spécifiquement pour les personnes qui, en raison de problèmes médicaux, mentaux, psychologiques, psychiatriques et/ou sociaux, ne peuvent pas être dirigées vers le marché du travail.*

*Deuxièmement : le Déploiement du financement qui suit la personne*

*Comme expliqué dans le 11ème rapport belge, la Flandre a récemment introduit le système du financement qui suit la personne.*

*Le nouveau système rompt radicalement avec l'ancienne politique relative aux personnes handicapées, car dans le passé il s'agissait donc d'une politique fortement axée sur l'offre*

*S'inspirant de la Convention des Nations Unies relative aux droits des personnes handicapées, la Flandre a opté pour une politique fortement axée sur la demande dans laquelle prime le droit à l'autodétermination des personnes handicapées.*

*Les principaux axes de cette politique sont :*

- d'une part, la recherche de la garantie de prise en charge des personnes handicapées qui ont le plus besoin de soins, et*
- d'autre part, la très bonne information des usagers des soins.*

*(Concrètement, ce choix se traduit par le déploiement du financement qui suit la personne. Les personnes handicapées se voient attribuer un budget d'une certaine catégorie budgétaire et avec une certaine priorité, en fonction des besoins objectifs de soutien.*

*Conclusion : La Belgique considère que sur base des informations qu'elle a soumise au CEDS dans son rapport du 30 octobre 2017 et des informations supplémentaires fournis aujourd'hui, qu'elle fait tout pour assurer un accès égal et effectif non seulement pour les adultes handicapés, mais aussi pour les personnes mineures dont une voie similaire sera d'ailleurs tracée.*

*(Elles disposent actuellement, entre autres, d'un « PAB » (budget d'assistance personnelle).*

432. The Chair said that due to the fact that the information submitted by the Belgium authorities have not yet been assessed by the ECSR, in the framework of the follow up to the collective complaints No.75/2011, it is not possible to examine the case of non-conformity properly.

433. The ETUC representative agreed with the Chair conclusion. It also pointed out that, as explained by the Secretariat, the conclusion of non-conformity on this case is based on a conclusion taken by the ECSR on a follow up to the collective complaint of FIDH v. Belgium No.75/2011. According to the ETUC this situation, instead of going towards the simplification of the reporting procedure, introduced in 2014,

creates some duplication for the country concerned. In fact, in this particular case, Belgium has to report twice on the same conclusion of non-conformity: first, under the collective complaint procedure and second, under the general reporting system. Therefore, the ETUC together with the Swedish and Dutch representatives asked, if the all system in question should be reconsidered or that, at least, there should be more clarity by the ECSR on this point. Moreover, the ETUC representative requested that the ECSR should pay more attention when selecting cases of non-conformity to be examined by the GC. The ECSR should avoid in the future choosing, for the GC discussion, cases of non-conformity that have been assessed, based on the collective complaint conclusion.

434. The Chair and the Secretariat agreed with the ETUC representative and suggested to bring this issue to the joint GC-ECSR Bureaus meeting.

435. The GC, therefore, took note of the information received, encourages the Belgium authorities to continue its efforts to bring the situation back in to conformity and decided to await the next assessment of the ECSR.

### **RESC 14§1 HUNGARY**

**The Committee concludes that the situation in Hungary is not in conformity with Article 14§1 of the Charter on the ground that equal access to social services is not guaranteed for lawfully resident nationals of all States Parties.**

436. The Secretariat recalled that the situation was not in conformity for the second time.

437. The representative of Hungary provided to the GC the following information:

*As the report we are discussing at this meeting clearly stated the relevant provisions of the Act III of 1993 on Social Administration and Social Benefits (Social Act) apply to:*

- *Hungarian citizens,*
- *holders of immigration or settlement permits;*
- *stateless persons,*
- *persons recognized as refugees or beneficiaries of subsidiary protection by the Hungarian authority.*

*The common criterion of entitlement is that these persons are lawfully residing in Hungary. However, pursuant to 3§2 of the Social Act, local governments, regardless of their competences, must provide the deprived persons with extraordinary support, meal and housing if their lives and physical integrity are at stake – this applies to State Party nationals lawfully staying in the territory of Hungary as well.*

*In view of the clear provisions of the Social Act, Hungary confirms its position that the situation in Hungary is conformity with the Charter in respect of 14§1 and no direct or indirect discrimination applies to nationals to the State Parties. On the contrary, the nationals of State Parties might be entitled to social services they urgently need even if they are not habitually residing in Hungary.*

*Last but not least, we highlight that, in accordance with its international commitments, the Government of Hungary regularly monitors the possible ways of bringing modifications to the relevant laws and regulations in order to promote the extension and improvement of a smooth and sustainable social care system which benefits the nationals of State Parties lawfully residing in Hungary, also.*

438. The Chair said that, as for the previous conclusions of non-conformity (POL and AZE) the GC will wait for further clarification by the ECSR on the issues discussed concerning Article 14§1.

439. The GC, therefore, took note of the information received by the Hungarian representative and decided to await for next assessment by the ECSR.

### **RESC 14§1 LATVIA**

**The Committee concludes that the situation in Latvia is not in conformity with Article 14§1 of the Charter on the ground that access to social services by nationals of other States Parties is subject to a length of residence requirement.**

440. The Secretariat recalled that the situation was not in conformity since 2007.

441. The representative of Latvia provided to the GC the following information:

*Law on Social Services and Social Assistance of 2003 establishes principles for provision of social work, social care, social and vocational rehabilitation services and the scope of persons entitled, as well as the principles of payment for and financing of these services.*

*The Law stipulates 2 basic principles:*

*1) social services are provided on the basis of an evaluation of the individual functional needs and resources. Evaluation is carried out by a social work specialist;*

*2) person, receiving social services or his/her supporter has a duty to pay for the care and rehabilitation services (if it is not provided otherwise in the Law).*

*To address the misunderstanding regarding the terminology used in respect of the rights of persons residing in Latvia to receive services from public finances or for a full fee, amendments were adopted to Article 3 of Law On Social Services and Social Assistance, and came into force in November 26<sup>th</sup> 2015. According to these amendments social care services, social rehabilitation and vocational rehabilitation and social assistance are accessible to all persons, lawfully residing in Latvia, if they meet certain requirements in order to receive respective support.*

*The following groups are entitled to services wholly or partially financed by State or local governments (i.e. from public finances):*

*1) citizens and non-citizens of Latvia;*

*2) aliens who have received a permanent residence permit or who have been granted the status of a permanent resident of the European Union in the Republic of Latvia;*

*3) citizens of the European Union Member States, European Economic Area states and the Swiss Confederation;*

*4) family members of the above mentioned.*

*In addition, persons who reside in the Republic of Latvia and who have been granted alternative status, asylum seekers, refugees, victims of trafficking in human beings, as well as their family members have the right to receive shelter and night shelter services and information and consultations from the social service office - fully financed from public finances. Children who have acquired alternative status have the right to receive social care services and social rehabilitation services financed from the State budget.*

*Other persons residing lawfully in Latvia pay for other types of social services received, from their own resources, directly to the service provider (including those nationals of other State Parties to whom the temporary residence permits have been issued).*

*It should be emphasized that social services from local governments like counselling, consultation and advice of a social work specialist as well as the right to receive shelter and night shelter services is free of charge for each person or family residing in Latvia. Shelter and night shelter service besides accommodation, food, sanitary and hygiene measures include also the possibility to receive social worker's consultations.*

*To ensure an access to free services and information for national workers of other States Parties, Ministry of Culture had developed the National identity, civil society and integration policy guidelines 2012 – 2018 (hereafter - Guidelines) where one of the goals is inclusion of nationals of other States into the society offering them motivational tools and opportunities to acquire knowledge about united society. In accordance with the Guidelines in the reference period the Action plans for 2014 - 2016 and 2017 - 2018 were developed. In the Action plan for 2014 – 2016 one of the goals for integration of nationals of other States Parties was development of National Integration Centre for them, including development of website, information materials and to provide consultations.*

*The Information Centre for Immigrants (ICI) has been operating all over Latvia as a one-stop agency, since May 18 2016. Until December 31, 2017 its operations have been ensured by NGO "Shelter "Safe House"" within the framework provided by the Asylum, Migration and Integration Fund.*

*By December 20 2017 Information Centre has provided support to 2514 persons – 1451 in Riga, 462 in Liepaja, 199 in Jelgava, 223 in Daugavpils, 179 in Cesis. In total, 3655 consultations have been provided regarding various legal and social issues. Most frequently, customers have chosen to receive consultations in person – in 2106 cases, 1021 consultations were provided by phone, 332 – using Skype, and 196 times by e-mail. The opportunity of follow-up consultations was often used.*

*Customers have used consultations of the Information Centre psychologist 121 times.*

*In total, free consultations were provided to people from 81 countries. TOP 20 countries: Russia, Syria, Ukraine, India, China, Turkey, Belarus, Pakistan, Uzbekistan, Tajikistan, Iraq, Georgia, Afghanistan, Egypt, United States, Azerbaijan, Eritrea, Armenia, Vietnam, Sri-Lanka.*

*Qualitative communication with the Information Centre's customers was ensured with the help of 33 translators / language specialists with the following language skills: Dari, Farsi, Pashto, Urdu, Arabic, French, Tajik, Kurdish, Punjabi, Chinese, Turkish, Uzbek, Hindi, Spanish, Tamil, Bengali, Vietnamese, and Armenian.*

*Interpreter services were provided not only for customer communication with the ICI's consultants, but also for professionals working with foreigners, for example, various state administration institutions, social services, crisis centres, education and healthcare*



*institutions of several local governments, banks and employers. In total, the interpreting service has been provided 1845 times to 618 clients.*

*Professional support for working with nationals of other States Parties has been provided to 422 specialists of various areas (social workers, managers of companies and NGOs, librarians, employees of orphan's courts and education institutions).*

*In order to strengthen the civil society and develop favourable and open environment for societies and foundations in working with nationals of other States Parties, NGOs Dialogue platform is being created and developed by Information Centre experts, currently involving 25 non-governmental organizations. Special Informative Days have also been organized in Liepaja, Riga and Daugavpils, where foreigners were provided with an opportunity to learn about the informative and practical resources available to them.*

*More than 130 volunteers have made significant contributions to organizing the Information Centre's activities. They have implemented 48 informative and integration events in different regions of Latvia.*

*Informative stories and newspaper articles were prepared to raise public awareness on the topic of migration; educational seminars and webinars as well as three international conferences on migration issues were organized.*

442. The Chair said that, as for the previous conclusions of non-conformity (POL, AZE, HUN), the GC will wait for further clarification by the ECSR on the issues discussed concerning Article 14§1.

443. The GC took note of the information received by the Latvian representative and decided to await the next assessment by the ECSR.

## **Article 30 – The right to protection against poverty and social exclusion**

### **RESC 30 BELGIUM**

**The Committee concludes that the situation in Belgium is not in conformity with Article 30 of the Charter on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.**

444. The Belgian representative provided the following information:

*La Secrétaire d'Etat à la Lutte contre la pauvreté a proposé au conseil des Ministres le troisième Plan fédéral de lutte contre la pauvreté. Ce plan, qui a été approuvé le 20 juillet 2016, couvre la période 2016 à 2019.*

*Le plan répond aux objectifs stratégiques suivants :*

- *Assurer la protection sociale de la population*
- *Réduire la pauvreté infantile*
- *Optimiser l'accès au marché du travail par le biais de l'activation sociale et professionnelle*
- *Intensifier la lutte contre le sans-abrisme et les logements insalubres*
- *Garantir le droit à la santé*
- *Rendre les services publics accessibles à tous*

*Ces objectifs ont trouvé leur origine dans le Programme national de réforme, le Rapport social national et le précédent Plan fédéral de lutte contre la pauvreté.*

*Pour chaque objectif stratégique, des objectifs opérationnels ont été formulés. Ceux-ci sont accompagnés d'actions concrètes pour la mise en œuvre du troisième Plan.*

*La Secrétaire d'Etat assure la coordination du Plan. Son administration, le Ministère de (SPP) l'Intégration sociale se charge du contrôle et du suivi, et ce, sur base notamment des recommandations issues du rapport d'audit que la Cour des Comptes a publié à l'issue du deuxième Plan fédéral de lutte contre la pauvreté.*

*Un rapport intermédiaire sur la mise en œuvre du troisième plan fédéral de lutte contre la pauvreté sera soumis au Conseil des Ministres à la mi-2018.*

*Plus précisément, le Ministère (SPP) de l'Intégration sociale est responsable du monitoring et du suivi du troisième Plan Fédéral de de Lutte contre la Pauvreté.*

*Jusqu'en juillet 2018, 27 actions ont été clôturées, 4 actions attendent une décision des ministres compétents et 30 actions sont en cours. Il y a plusieurs des actions en cours qui se dérouleront par définition jusqu'à la fin de la législature (2019).*

*Afin de lutter contre la pauvreté, la Secrétaire d'Etat a demandé à son administration de développer plusieurs projets concrets en concertation avec les autres niveaux de pouvoirs et le secteur associatif.*

*En matière de lutte contre la pauvreté infantile, un soutien financier supplémentaire sera accordé aux familles monoparentales avec enfants à charge et ayant un faible revenu professionnel. La déduction des frais de garde d'enfants pour ce groupe est augmentée.*

*Le 3 juillet 2018, un appel à projets fédéral intitulé «Lutter efficacement et réellement contre la pauvreté infantile» a été lancé. Ce projet renforcera le rôle des CPAS dans la lutte contre la pauvreté familiale. L'objectif est la détection rapide des situations problématiques et une assistance intégrée pour les enfants et leurs familles.*

*Une nouvelle législation est en cours de préparation au niveau fédéral. Elle concerne le revenu d'intégration sociale (réforme de l'exemption socio-professionnelle), l'allocation d'invalidité et le revenu de remplacement pour les personnes présentant un handicap. Le principe est que les efforts de réinsertion sur le marché du travail doivent être encouragés financièrement.*

*Le projet MIRIAM qui offre au groupe cible des femmes en situation de monoparentalité bénéficiaires du revenu d'intégration davantage d'opportunités d'insertion socio-professionnelle grâce à un accompagnement individuel et collectif intensif, sera financé dans 6 nouveaux CPAS en 2018.*

*Afin de lutter contre le sans-abrisme et l'absence de chez soi, le Housing First Lab a créé un programme de formation initiale et continue destiné aux acteurs de terrain. Il réunit les différents partenaires, dont les administrations régionales. Un projet pilote a été confié à un consortium d'organisations non gouvernementales pour tester un modèle de parcours d'insertion.*

*Une réforme de l'aide sociale permettant l'attribution d'une adresse de référence qui permettra aux ayants-droit de maintenir et/ou retrouver leurs droits malgré la perte de leur domicile est en cours de finalisation.*

*Enfin, la thématique de l'intégration des Roms, qui représentent un groupe fragile, a été mise en œuvre. Une attention particulière a été portée sur la lutte contre la discrimination en matière d'emploi, d'éducation, de logement et de soin de santé. La plateforme nationale des Roms organise également des moments de dialogue dans la lutte contre la discrimination en mettant l'accent sur l'autonomisation des femmes et des jeunes.*

*Par ailleurs , une Plateforme belge contre la pauvreté et l'exclusion sociale UE2020 a été créée en 2010 dans le cadre de la stratégie Europe 2020, et ce par analogie avec la Plateforme européenne contre la pauvreté et l'exclusion sociale.*

*(La Plateforme belge contre la pauvreté et l'exclusion sociale UE2020 représente l'organe de concertation central pour la préparation et le suivi de la politique belge et européenne dans le domaine de la lutte contre la pauvreté et l'exclusion sociale en vue de la rédaction et du suivi du Plan national de Réforme. Il est constitué de représentation de la société civile, de personnes vivant en situation de pauvreté, d'ONG, de syndicats, de pouvoirs publics des différents niveaux de pouvoirs, ... et se réunit minimum 3 fois par an. Des groupes de travail sont constitués si cela s'avère nécessaire afin de rédiger des recommandations politiques. La dernière en date concernait la prévention du sans-abrisme).*

*En conclusion, nous pouvons dire qu'en ce qui concerne la lutte contre la pauvreté et l'exclusion sociale, la Belgique dispose de divers outils permettant de se concerter. Le troisième Plan fédéral de Lutte contre la Pauvreté, les différents projets spécifiques ainsi que l'outil de concertation qu'est la Plateforme belge contre la pauvreté et l'exclusion sociale UE2020 démontrent bien qu'il existe une approche globale et coordonnée adéquate en matière de lutte contre la pauvreté et l'exclusion sociale.*

*Le Gouvernement fédéral va poursuivre ses efforts, et ce, malgré les restrictions budgétaires.*

445. The Governmental Committee took note of the information provided and decided to await the next assessment of the ECSR. It also proposed that the scope of the obligations following from Article 30, and notably with respect to links with other provisions of the Charter be the subject of discussion/clarification with the ECSR at the next joint meeting of the two bureaus.

## **RESC 30 IRELAND**

***The Committee concludes that the situation in Ireland is not in conformity with Article 30 of the Charter on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.***

446. The Irish representative provided the following information:

*The years since the reference period of the 14<sup>th</sup> report (2012-2015) have seen a continued improvement in the Irish economy. However, while the Committee notes that there were signs of economic growth from 2012, the depth of the recession in Ireland was significant, and was accompanied by banking and fiscal crises. The Irish Government chose a prudent approach to fiscal policy and as a result it has taken some time for the resumed economic growth to be translated into increases in welfare payments. Despite this, the key component of the Government's social welfare policy from 2011 onwards was to maintain the value of the core weekly rates of social welfare payments and this was achieved.*

*During the years covered by the reference period, the minimum personal rate payable to a single person was above 100%, in the years 2012-2014, of the national at-risk-of-poverty threshold (50% of median income) and dropped only to 98% in 2015 as incomes began to reflect the growth in the economy. It must be emphasised that this personal rate does not include other available supports which are available, such as assistance towards housing costs, the provision of free medical care etc.*

*Despite the challenging economic environment and the slow return to economic growth, total social welfare expenditure in Ireland for the reference period 2012-2015 averaged €20bn per*

year. And, on average over the 4 year period, 48% of the population benefitted from social welfare payments each year.

Once it became clear that there was sufficient 'fiscal space' to do so, the Government began to increase selected welfare rates. This started in October 2015 with the 2016 budgetary process which saw increases in selected welfare rates including those for older people, carers, working families and in monthly child benefit payments. The following Budgets 2017 and 2018 have included more general increases. Budgetary Social Impact Assessments have shown that people in the bottom two income quintiles have gained the most from the social welfare increases.

The combination of economic growth, the increase in the number of people in employment and the impact of social transfers can be seen in the most recent poverty data from the 2016 Survey on Income and Living Conditions. These show that consistent poverty is reducing from 9.1% in 2013 to 8.3% in 2016. The at-risk-of-poverty rate was 17.2% in 2014 and is now 16.5%. The most significant reduction is in the basic material deprivation rate which decreased from 30.5% in 2013 to 21% in 2016. While these rates are not yet as low as desired, it is expected that they will further improve as the impact of the recovery is fully reflected in the 2017 and 2018 SILC results.

The assertion that Ireland does not have an adequate overall and coordinated approach to combating poverty and social exclusion or that it is implemented in a piecemeal manner is utterly rejected.

Since 1997 Ireland has put in place successive national strategies focusing on the reduction of poverty and social exclusion in Irish society. These plans have been cross-governmental in nature, incorporating policies and actions from a range of government departments. Actions are chosen for their potential to bring about improved outcomes for people living in poverty and/or experiencing social exclusion. In the case of each successive plan, the focus has been on the reduction of the number of people in consistent poverty – that is with an income below 60% of the national median income and experiencing material deprivation, according to the national poverty measures.

The plans have been developed by the Department of Employment Affairs and Social Protection, in conjunction with other government departments, following extensive consultation with community and voluntary sector groups, particularly those representing people who are in poverty and/or experiencing social exclusion. Once developed, the plan is submitted to Government for approval. Progress of each plan is monitored by a group of senior officials from a range of government departments. This group, in turn, reports to the relevant Cabinet Committee on its progress.

Formal reporting takes place on an annual basis in the form of two published reports:

- The first is a detailed report on progress against the national social target for poverty reduction, based on poverty data from the most recently available national Survey on Income and Living Conditions. This report is published and made available on the Department's website;
- The second report is a biannual progress report by government departments on the actions they have committed to under the plan. Once completed the report is signed off at ministerial level and is laid before the Houses of the Oireachtas (Parliament). It is also published and made available on the Department's website.

*Engagement with people experiencing poverty and social exclusion and the community and voluntary groups that represent them is an important facet of the ongoing monitoring and development of government policy on poverty and social exclusion. This engagement takes place on an ongoing basis throughout the year and in a variety of fora organised by the Department of Employment Affairs and Social Protection, such as:*

- The annual Social Inclusion Forum is a day-long conference attended by community and voluntary sector groups, people experiencing poverty and social exclusion, senior officials and policy makers from a number of government departments and the Minister for Employment Affairs and Social Protection. The event is organised by the Department in partnership with EAPN Ireland and Community Work Ireland and it allows for a robust debate between the participants about the policy and social exclusion issues that most concern them. A report of the discussions and findings of the Forum is produced and published online.*
- The Minister for Employment Affairs and Social Protection also attends the annual Pre-Budget Forum which provides an opportunity for the community and voluntary sector and other interest groups to make direct submissions to department officials about the changes they would like to see introduced at budget time.*
- On Budget Day each year, the community and voluntary sector attends a briefing session hosted by the Department of Employment Affairs and Social Protection to inform them of the changes being introduced and to allow them to discuss those changes with the relevant department officials.*
- Additionally, throughout the year there is direct engagement between department policy-makers and the community and voluntary sector to discuss their concerns and update them on policy developments.*

*Ireland rejects the assertion that sufficient steps were not taken to review and revise the National Action Plan for Social Inclusion and associated targets during the reference period. Work began on the revision of the national poverty target in 2011 with a revised national social target for poverty reduction adopted in October 2012.*

*While the consistent poverty rate had dropped to 4.2% in 2008, by 2010 it had risen to 6.3% (eventually reaching a high of 9.1% in 2013 as the full effects of the recession impacted). The revised poverty target remained ambitious with an interim goal to reduce the rate of consistent poverty to 4% by 2016 and an overall target of 2% by 2020, from the 2010 benchmark of 6.3%. The 2020 target remains in place.*

*The 2011/12 and 2013/14 annual reports on progress of the National Action Plan for Social Inclusion actions recognised that, while some of the actions in the 2007-2016 plan had been completed, others had been overtaken by changes in policy and required updating. The annual progress reports included the details of these changes where appropriate.*

*In 2014, there was a decision by the Cabinet Committee on Social Policy and Public Service Reform to update the National Action Plan for Social Inclusion high-level goals for the period 2015-2017. The Committee recognised that Ireland faced different challenges to those in 2007 when the plan was originally published, and that it should reflect other strategies relevant to poverty and social inclusion which had emerged, such as the National Reform Programme, the European Semester and the Statement of Government Priorities for the period 2014-2016.*

*The 2015-2017 updated plan was developed following consultation with relevant government departments and the community and voluntary sector. It reflected changes in the Government's approach to combating poverty, through a greater focus on reforms relating to modernisation of social protection systems, improving effectiveness and efficiency of transfers and strengthening active inclusion policies to address employment and social challenges.*

*Conclusion/ wrap up*

*The Irish National Action Plan for Social Inclusion, and the later update, covered the period 2007 to 2017 and so had reached the end of its timeframe when the Committee's conclusions were published in January of this year. By this stage, work had already begun on the development of a new poverty reduction and social inclusion strategy to cover the period 2018-2021. Consultation on the development of this plan began in 2017 with the public consultation process taking place early in 2018. It is expected that this new strategy will be published in the coming months.*

447. The Secretariat explained that in reaching its conclusion of non-conformity the ECSR had taken into account not only that poverty rates had remained more or less unchanged during the reference period despite a context of economic growth, but also the severe criticism of the (second) National Action Plan for Social Inclusion expressed by certain national institutions such as the Irish Human Rights Commission and by civil society organisations such as the European Anti-Poverty Network as well as the ECSR's findings of non-conformity for Ireland in respect of other provisions of the Charter, which are crucially linked to the combat against poverty, such as Articles 12 and 13.

448. The Irish representative reiterated that the ECSR's conclusion was unfounded and based on unclear criteria and excessive interpretative zeal on the part of the ECSR. She was of the view that the ECSR's interpretation of Article 30 went way beyond a strict reading of the terms of this provision and in particular she considered it inadmissible that the ECSR relied on conclusions under other provisions of the Charter when it was clear that the provisions of the Charter set out discrete obligations in separate articles.

449. The Secretariat recalled that the ECSR's approach was dynamic and teleological, having regard to the object and purpose of the Charter and to contemporary conditions, as was the case for other human rights treaty bodies.

450. The Governmental Committee took note of the information provided and decided to await the next assessment of the ECSR. It also proposed that the scope of the obligations following from Article 30, and notably with respect to links with other provisions of the Charter be the subject of discussion/clarification with the ECSR at the next joint meeting of the two bureaus.

## **RESC 30 ITALY**

***The Committee concludes that the situation in Italy is not in conformity with Article 30 of the Charter on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.***

451. The Italian representative provided the following information:

*In response to the situation of non-conformity of domestic legislation in Italy in regards to article 30 of the revised Social Charter meaningful data is herein provided in relation to the measures that have been implemented over the last three years to ensure a strategic, structural, universal, coordinated and effective response to poverty and social exclusion.*

*With the 2016 Stability Law (Law n. 208 dated 28<sup>th</sup> December, 2015), Italy has adopted a National Fund for Combating Poverty and Social Exclusion that provides a structural financial allocation of approximately 1 billion 750 million euro in 2018, increasing to 2.2 billion euro in 2019 and well over 2.7 billion euro from 2020, all aimed at implementing the National Plan to Combat Poverty. These resources are designed to promote the right to protection against poverty and social exclusion, through a universal support system throughout the whole of the national territory to combat absolute poverty, starting with families with minor children.*

*With legislative decree n. 147 dated 14<sup>th</sup> September 2017, Italy implemented the provision of Law 15<sup>th</sup> March 2017, n. 33, that introduced for the first time in Italy a comprehensive national anti-poverty strategy that includes the implementation of national measures to combat poverty REI – REDDITO DI INCLUSIONE (minimum income for inclusion), the rationalisation of social benefits and the entrenchment of social services coordination.*

*The REI combines two kinds of actions:*

- 1. an economic benefit paid into a personal electronic payment card (REI CARD), that can be used to purchase basic goods or/and to withdraw cash (up to a maximum of 240 € per month);*
- 2. a personalized project for social activation and inclusion into the labour market for the individual, tailored on and addressed to the entire family of the beneficiary and involving its members. The project is defined together with the social services of the Municipality, and implemented in cooperation with employment, health and education services as well as with private actors.*

*The REI substitutes the previous social benefit measures, such as the SIA (Support for Active Inclusion) and the ASDI (Unemployment benefit).*

*With a view to the progressive extension of the measure to combat poverty, the 2018 Budget Law (Law n. 205 dated 27<sup>th</sup> December 2017 - Article 1, paragraph 192) repealed, as from 1<sup>st</sup> of July 2018, all of the family requirements (presence of child in the household or a disabled person or a pregnant woman or an unemployed person over 55 years of age).*

*Therefore, the REI has become universal and the only fundamental requirement is the absence of an adequate income and financial resources to live properly. It is estimated that during 2018, the households beneficiaries of the REI could increase up to 700 thousand, to the nearly 2.5 million people.*

*All those measures ensure a move forward towards*

- a) the rationalisation of social spending;*
- b) a coherent system of quality, of affordable services (public employment services, social services, childcare services etc.);*
- c) a better balance between a social protection system based on pension expenditure and a protection system investing in social services dedicated to family and children.*

*The personalized project of social and work activation is based on a multidimensional assessment of the problems and needs related to the family and family members. The analysis*

*provides detailed information on issues such as personal and social conditions; the economic situation; the work situation; education; the housing and living conditions, etc.*

*The payment of the economic benefit is conditioned to the participation of the beneficiary (and the family) to the project.*

*Residence and stay requirements.*

*The applicant must be jointly:*

- a citizen of the European Union or his family member who is the holder of the right of residence or the right of permanent residence status; be a third-country national holding an EU residence permit for long-term residents;*
- residing in Italy, on a continuous basis, for at least two years at the time of submission of the application.*

*Financial requirements.*

*To be eligible for the economic benefit it is necessary to meet certain requirements on the basis of a system of indicators (currently applicable in Italy) aimed at assessing the financial situation of the person requesting the benefit. (ISEE – Equivalent Indicator of Economic Situation / ISR - the ISEE income indicator).*

*The economic benefit:*

*The economic benefit varies according to the number of family members and depends on the economic resources already possessed by the same nucleus.*

*Table 1: maximum monthly value of the economic benefit*

*Number of components Maximum monthly benefit*

<i>1</i>	<i>187, 50 €</i>
<i>2</i>	<i>294, 50 €</i>
<i>3</i>	<i>382, 50 €</i>
<i>4</i>	<i>461, 25 €</i>
<i>5</i>	<i>534, 37 €* </i>
<i>6 or more</i>	<i>539, 82 €* </i>

*\* Amounts modified because of the 2018 Budget Law.*

*The benefit is granted for a maximum period of 18 months and, if necessary, can be renewed for a further 12 months.*

*In order to encourage greater geographical harmonization regarding the provision of benefits and to better define guidelines for interventions, Legislative Decree n.147 dated 15<sup>th</sup> September 2017 established the Protection and Social Inclusion Network, to ensure a dialogue and exchanges within a stable infrastructure for the political comparison between the various levels of Government (Central Administrations, Regions and Municipalities) as the coordinating body of the intervention system and of the social security services.*

*In order to facilitate the implementation of the REI, Legislative Decree n.147/2017 established the Committee for Combating Poverty, as a specific technical articulation of the Network of social protection and social inclusion, for the purpose of monitoring implementation of the REI, and also the Observatory on Poverty (composed not only of representatives of the central, regional and municipal administrations of the Network, but*



*also of representatives of INPS (National social Welfare Institution), ISTAT (National Institute of Statistics) and non-profit organizations), which has the task of preparing a biennial report on poverty, promote the use of REI, and express its opinion on the Annual Report on the implementation of REI ( all this data will be submitted in the next report on article 30 of the revised social charter).*

*Furthermore, it is necessary to underline that, already starting from the next 2019 Budget Law, a new measure of income support will be introduced, in a structural way, the so-called "Reddito di cittadinanza" "Citizenship income". With this tool the Government intends to ensure more effective support in favor of citizens and families in difficult economic conditions which put them below the absolute poverty line.*

*The measure, which will be able to improve the overall condition of the beneficiaries, evidently represents a decisive step to satisfy the requests that, even at European level, led our country to a great commitment in the field of welfare and social policies.*

452. The representatives of Greece and Luxembourg asked for more information about the citizenship income, notable whether it was granted to all, including all foreigners from third countries being States Parties to the Charter.

453. The Italian representative indicated that full information in this respect would be included in the next report.

454. The Governmental Committee took note of the information provided and decided to await the next assessment of the ECSR. It also proposed that the scope of the obligations following from Article 30, and notably with respect to links with other provisions of the Charter be the subject of discussion/clarification with the ECSR at the next joint meeting of the two bureaus.

## **RESC 30 UKRAINE**

***The Committee concludes that the situation in Ukraine is not in conformity with Article 30 of the Charter on the ground that there is no adequate overall and coordinated approach to combating poverty and social exclusion.***

455. The representative of Ukraine provided the following information:

*In March 2016 the Poverty Reduction Strategy until 2020 was approved by the Decree of the Government.*

*According to the Strategy an annual plan for each corresponding year should be developed. The Action plan for 2018 was approved in February this year. For the first time the legal acts concerning combating poverty include the definition "social exclusion".*

*In order to improve effective monitoring and evaluation of the social support programs and their impact on poverty reduction in Ukraine, the Integrated Poverty Assessment Methodology was approved by the Order of the Ministry of Social Policy, Ministry of Finance, State Statistic Service and National Academy of Sciences of Ukraine in May 2017.*

*According to the Methodology, the assessment of poverty is carried out according to monetary criteria.*

*Effective 1 July 2015, transition to the targeted provision of social benefits has been providing taking into account the income.*

*The Unified Information Database of Internally Displaced Persons has been implemented.*

*The establishment of centres for the provision of social services in the format “Transparent Office” has been launched.*

*Transparent Office is the customer-oriented system of providing administrative services including social services.*

*Transparent office includes among others services on social protection, social insurance as well pension provision.*

*List of cities and united communities where Transparent Office shall be established, was approved by the Resolution of the Government in October 2017.*

*Some statistical data to demonstrate the current situation:*

*In 2017, the state social standards and guarantees have been raised. In particular, the minimum wage has been doubled since 2016 and amounted as 1 January, 2017 - UAH 3,200.*

*The subsistence minimum level has been raised by 10.1%, and the minimum pension by 16.4%.*

*Increase in incomes to all groups of population contributed to improvements in situation regarding poverty. For the first time since 2013, we can see a significant reduction in the level of absolute poverty. The poverty rate for income below the actual subsistence level has decreased from 53.6% in 2016 to 38.2% in 2017.) Among the working population, absolute poverty has decreased from 44.2% to 25.3%.*

456. The Governmental Committee took note of the information provided and decided to await the next assessment of the ECSR. It also proposed that the scope of the obligations following from Article 30, and notably with respect to links with other provisions of the Charter be the subject of discussion/clarification with the ECSR at the next joint meeting of the two bureaus.

## APPENDIX I

### List of participants

- (1) 137<sup>th</sup> meeting, Strasbourg, 23-27 April 2018
- (2) 138<sup>th</sup> meeting, Strasbourg, 24-28 September 2018

**137<sup>th</sup> meeting of the Governmental Committee  
23-27 April 2018  
Strasbourg – Agora building – room G 01**

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24-28 September 2018  
Strasbourg – Agora building – room G 01**

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## Appendix II

Table of signatures and ratifications – situation at 1 December 2018

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure	
Albania	21/09/98	14/11/02		
Andorra	04/11/00	12/11/04		
Armenia	18/10/01	21/01/04		
Austria	07/05/99	20/05/11		
Azerbaijan	18/10/01	02/09/04		
Belgium	03/05/96	02/03/04	23/06/03	
Bosnia and Herzegovina	11/05/04	07/10/08		
Bulgaria	21/09/98	07/06/00	07/06/00	
Croatia	06/11/09	<b>26/02/03</b>	26/02/03	
Cyprus	03/05/96	27/09/00	06/08/96	
Czech Republic	04/11/00	<b>03/11/99</b>	04/04/12	
Denmark	*	03/05/96	<b>03/03/65</b>	
Estonia	04/05/98	11/09/00		
Finland	03/05/96	21/06/02	17/07/98 X	
France	03/05/96	07/05/99	07/05/99	
Georgia	30/06/00	22/08/05		
Germany	*	29/06/07	<b>27/01/65</b>	
Greece	03/05/96	18/03/16	18/06/98	
Hungary	07/10/04	20/04/09		
Iceland	04/11/98	<b>15/01/76</b>		
Ireland	04/11/00	04/11/00	04/11/00	
Italy	03/05/96	05/07/99	03/11/97	
Latvia	29/05/07	26/03/13		
Liechtenstein	<b>09/10/91</b>			
Lithuania	08/09/97	29/06/01		
Luxembourg	*	11/02/98	<b>10/10/91</b>	
Malta	27/07/05	27/07/05		
Republic of Moldova	03/11/98	08/11/01		
Monaco	05/10/04			
Montenegro	22/03/05	03/03/10		
Netherlands	23/01/04	03/05/06	03/05/06	
Norway	07/05/01	07/05/01	20/03/97	
Poland	25/10/05	<b>25/06/97</b>		
Portugal	03/05/96	30/05/02	20/03/98	
Romania	14/05/97	07/05/99		
Russian Federation	14/09/00	16/10/09		
San Marino	18/10/01			
Serbia	22/03/05	14/09/09		
Slovak Republic	18/11/99	23/04/09		
Slovenia	11/10/97	07/05/99	07/05/99	
Spain	23/10/00	<b>06/05/80</b>		
Sweden	03/05/96	29/05/98	29/05/98	
Switzerland	<b>06/05/76</b>			
«the former Yugoslav Republic of Macedonia»	27/05/09	06/01/12		
Turkey	06/10/04	27/06/07		
Ukraine	07/05/99	21/12/06		
United Kingdom	*	07/11/97	<b>11/07/62</b>	
Number of States	47	<b>2</b> + 45 = 47	<b>9</b> + 34 = 43	15

The **dates in bold** on a grey background correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

\* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

## **Appendix III**

### **List of Conclusions of non-conformity examined orally following the proposal of the European Committee of Social Rights**

#### **List of Conclusions of non-conformity examined orally following the proposal of the European Committee of Social Rights**

Article 3 RESC - Right to safe and healthy working conditions

Article 3.2 RESC - To issue safety and health regulations

**RESC 3§2 ANDORRA**  
**RESC 3§2 FRANCE**  
**RESC 3§2 GEORGIA**  
**RESC 3§2 HUNGARY**  
**RESC 3§2 MOLDOVA (REPUBLIC OF)**  
**RESC 3§2 ROMANIA**  
**RESC 3§2 UKRAINE**

*Article 3.3 RESC - To provide for the enforcement of such regulations by measures of supervision;*

**RESC 3§3 BULGARIA**  
**RESC 3§3 LITHUANIA**  
**RESC 3§3 MOLDOVA (REPUBLIC OF)**  
**RESC 3§3 PORTUGAL**  
**RESC 3§3 RUSSIAN FEDERATION**  
**RESC 3§3 TURKEY**  
**RESC 3§3 UKRAINE**

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*Article 11 RESC – The right to protection of health*

*Article 11§1 RESC - To remove as far as possible the causes of ill-health*

**RESC 11§1 AZERBAIJAN**  
**RESC 11§1 BULGARIA**  
**RESC 11§1 GEORGIA**  
**RESC 11§1 HUNGARY**  
**RESC 11§1 MOLDOVA (REPUBLIC OF)**  
**RESC 11§1 ROMANIA**  
**RESC 11§1 RUSSIAN FEDERATION**  
**RESC 11§1 UKRAINE**

*Article 11§2 RESC - To provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health*

**RESC 11§2 GEORGIA**  
**RESC 11§2 UKRAINE**

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*Article 12 - The right to social security*

*Article 12§1 RESC - To establish or maintain a system of social security*

**RESC 12§1 BOSNIA AND HERZEGOVINA**  
**RESC 12§1 GEORGIA**  
**RESC 12§1 HUNGARY**  
**RESC 12§1 MONTENEGRO**  
**RESC 12§1 SERBIA**  
**RESC 12§1 “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

*Article 12§4* - To take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:

- equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;
- the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

#### **RESC 12§4 “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

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*Article 13* – The right to social and medical assistance

*Article 13§1* - to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition.

**RESC 13§1 ARMENIA**  
**RESC 13§1 AUSTRIA**  
**RESC 13§1 BULGARIA**  
**RESC 13§1 ESTONIA**  
**RESC 13§1 FINLAND**  
**RESC 13§1 FRANCE**  
**RESC 13§1 HUNGARY**  
**RESC 13§1 LITHUANIA**  
**RESC 13§1 MOLDOVA (REPUBLIC OF)**  
**RESC 13§1 MONTENEGRO**  
**RESC 13§1 PORTUGAL**  
**RESC 13§1 SERBIA**  
**RESC 13§1 SLOVAK REPUBLIC**  
**RESC 13§1 “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

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*Article 14 - The right to benefit from social welfare services*

*Article 14§1 RESC* - To promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment.

**RESC 14§1 AZERBAIJAN**  
**RESC 14§1 BELGIUM**  
**RESC 14§1 HUNGARY**  
**RESC 14§1 LATVIA**

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*Article 30 - The right to protection against poverty and social exclusion*

**RESC 30 BELGIUM**  
**RESC 30 IRELAND**  
**RESC 30 ITALY**  
**RESC 30 UKRAINE**

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## Appendix IV

### List of deferred Conclusions

Andorra	RESC Articles 13.4, 30
Armenia	RESC Articles 7.10, 12.3, 13.2, 14.2, 19.8, 27.3
Azerbaijan	RESC Articles 7.3, 11.2, 14.2, 27.1, 27.2
Belgium	RESC Articles 13.1, 13.4
Bosnia and Herzegovina	RESC Articles 11.1, 13.2, 14.1, 14.2, 23
Estonia	RESC Article 30
Finland	RESC Articles 13.4, 23
Georgia	RESC Article 11, 19
Hungary	RESC Article 3.3
Ireland	RESC Article 23
Italy	RESC Articles 3.1, 3.2, 3.3, 12.1, 13.2, 14.1
Lithuania	RESC Articles 11.3, 12.4
Latvia	RESC Articles 3.1, 3.2, 3.4, 12.2, 13.2
Moldova	RESC Articles 3.1, 13.2, 13.3
"The former Yugoslav Republic of Macedonia"	RESC Articles 3.2, 13.3
Malta	RESC Articles 11.2, 11.3, 13.3, 13.4
Montenegro	RESC Articles 11.2, 12.2, 12.4, 13.4
Portugal	RESC Articles 11.1, 11.3, 13.4, 14.2, 23
Romania	RESC Articles 7.1, 7.6, 7.7, 11.3, 13.3
Russian Federation	RESC Articles 11.2, 11.3
Serbia	RESC Articles 11.1, 11.2, 11.3, 12.3, 13.3, 14.1, 14.2
Slovenia	RESC Articles 31.1
Turkey	RESC Articles 3.1, 3.2, 3.4, 7.5, 8.2, 11.3, 12.4, 13.4, 16, 27.1, 27.3
Ukraine	RESC Articles 3.1, 14.1

## Appendix V

### List of examples of positive developments in State Parties:

#### ANDORRA

##### Article 3§1

- On 17 April 2013, after consulting employers' and employees' organisations, the Government approved the text of four technical notes relating to Law No. 34/2008 and concerning four areas, in particular very small and small enterprises in sectors of activity where risks are low or very low; co-operation and co-ordination; providing information for and training employees, and health supervision.

##### Article 3§2

- Four sets of regulations were adopted during the reference period. The Regulations on minimum health and safety requirements for the use of personal protective equipment (BOPA, 10 October 2012) determine the notion of personal protective equipment; a list of exclusions; the standard criteria which must be applied when risks cannot be sufficiently avoided or mitigated through technical means of collective protection or through the adoption of measures, methods and procedures for organising work; and a list of obligations which are incumbent on employers and employees with regard to the use of personal protection equipment. The Regulations on minimum health and safety requirements for the use of work equipment (BOPA, 10 October 2012) set out measures to encourage improvements in the safety and health of private and public sector workers when using work equipment, and the roles and responsibilities of employers and employees regarding work equipment. Moreover, the Regulations on minimum requirements regarding health and safety signs in workplaces (BOPA, 10 October 2012) indicate their scope and expressly recognise two cases in which they are not applicable (sale of dangerous products, equipment, substances and preparations, and signs used for regulating road and air traffic, except concerning such traffic in the workplace). In addition, they define the concepts of different types of health and safety signs. These regulations also contain provisions on information and training, as well as on worker consultation and participation.

##### Article 3§4

- Since April 2013, all companies must have a protection and prevention service which performs and carries out the following tasks and activities: design, apply and co-ordinate preventive action plans and programmes; evaluate risk factors which may affect occupational health and safety at work; identify priorities for the adoption of appropriate preventive measures and supervise their effectiveness; inform and train employees so as to avoid the risks linked to their work, and implement emergency and first aid plans;
- The Technical Information Note No. 4 of the Labour Inspectorate Department, which was approved by the Government on 17 April 2013, clarifying details of the content of Article 19 (health supervision) of the law on occupational health and safety and the Regulation on occupational health services. Particular reference is made to the definition of occupational health services and to the objectives of medical examinations; the need to propose medical examinations at work if they are not compulsory (in particular at regular intervals); carrying out compulsory medical examinations (dangerous activities, workers under 18 years of age, particularly sensitive workers, return to work after more than 6 months' sick leave and in cases in which it is essential in order to be able to evaluate the risks); the terms applied for proposing or carrying out medical examinations at work for all employees; supervising the health of workers who have several jobs or in the event that they change posts; the medical supervision of minors.

##### Article 12§3

- As from 2012, social security coverage has been compulsory for self-employed workers.



- As from September 2014, family allowances have been granted starting from the first child, rather than from the second (Law 6/2014 of 24 April 2014).
- As from 2015, healthcare coverage has been extended to certain categories of economically inactive persons.

#### Article 13§1

- According to the report, Act 6/2014 of 24 April on Social and Health Services, is a step forward in the organisation and consolidation of the Andorran social protection system, introducing comprehensive benefits that complement the benefits established by the social security regulations.

#### Article 19§1

- Since December 2014, the Criminal Code established as criminal offences, inter alia public incitement to violence, hatred or discrimination against an individual or a group of individuals, public insults or defamation and threats, as well as the public dissemination or distribution and the production or possession of racist images or material.
- Andorra has implemented an advanced inclusive educational programme which attaches considerable importance to human rights and efforts to tackle stereotypes, hate speech and discrimination.

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### ARMENIA

#### Article 3§1

- On 1st August 2015, the Government, the Confederation of Trade Unions of Armenia and the Republican Union of Employers of Armenia concluded the Republican Collective Agreement with a view to ensure health and safety of employees during employment. It prescribes the obligations of the parties to social partnership, which includes the improvement of the role of trade unions, as well as the legislation for the purpose of increasing the economic interest and liability of employers, assistance in the drafting and introduction of the rules and norms for ensuring the safety and health of employees, promotion of development of the policy targeted at work safety within organisations, and the introduction of modern systems for monitoring of working conditions.

#### Article 8§4

- Article 148 of the Labour Code has been amended (Law No. HO-96-N of 22 June 2015) and henceforth provides that pregnant women and employees taking care of a child under the age of three may be engaged in night work only with their consent after undergoing a preliminary medical examination and submitting a medical opinion to the employer.

#### Article 12§3

- The adoption, in 2011 and 2012 of a package of social security services, including compulsory medical insurance, for civil servants and employees working in state not for profit organisations operating in the fields of education, culture and social security (Decisions No. 1923-N of 29 December 2011 and No. 1691-N of 27 December 2012).
- The extension, in 2015, of free medical care to include emergency heart surgery.
- The increase, as from 2014, of invalidity pensions of the first and second group of disability.

#### Article 13§1

- The Committee notes from the report that in 2014 the Law 'On state benefits' entered into force and the Law "On social assistance" entered into force on 1 January 2015. In the course of 2012-2015, changes were introduced to the system of family (or social) benefits, mainly concerning the improvement of the procedure and administration of assessment of the level of indigence of families. As a result, families with low income, especially those with children also acquire the right to family (or social) benefits.

## AUSTRIA

### Article 3§1

- A Joint Resolution on the Austrian Employees Safety and Health Strategy 2013-2020 has been signed by all federal ministries involved in occupational health and safety, by accident insurers, social partners and interest groups. The Resolution is aimed at consistently improving the safety and health of Austrian employees, particularly with regard to areas like muscular and skeletal strain, psychological stress, risk posed by carcinogens and workplace evolution and support by prevention experts.

### Article 3§2

- The amendment to the Workers Protection Act (Federal Law Gazette I No. 118/2012) is aimed at more effective prevention of stress and risks of a psychological nature that lead to inappropriate physical strain on workers. Risks potentially resulting in psychological stress are also required to be examined and assessed as part of risks assessment;
- Act No. 450/1994 of 17 June 1994 on Workers Protection, which sets out the basic legal framework in the field of occupational safety and health, was amended during the reference period to introduce the additional possibility of requiring a fire protection group and the health and safety committee and to clarify the role of prevention expert;
- As regards specific regulations on establishment, alteration and upkeep of workplaces, regulations have notably been adopted concerning worker protection by means of personal protective equipment (Ordinance, Federal Law Gazette II No. 77/2014), health surveillance at work (Ordinance, Federal Law Gazette II No. 26/2014), electrical protection (Ordinance, Federal Law Gazette II No. 33/2012), observance of workers' protection requirements and proof of compliance in transport approval procedures (Ordinance, Federal Law Gazette II No. 17/2012);
- The provisions of the Ordinance governing chemicals (2003) and the Ordinance on asbestos (2003) entered into force on 1st January 2014, banned the marketing and use of asbestos fibres. In practice, the provisions covering the marketing of asbestos-containing substances and preparations are applied so that any marketing of asbestos (also in preparations and finished products) is banned.

### Article 3§3

- As of 1 July 2012 the scope of competence of the Labour Inspectorate was broadened to additionally cover the workplaces and work sites previously falling under the Transport Labour Inspectorate. Separate statistics continued to be kept in 2012 and 2013, while combined data is reported as of 2014.

### Article 3§4

- As a result of an amendment to the Workers Protection Act (ArbeitnehmerInneschutzgesetz, ASchG) that entered into force as of 1 January 2013, Section 4§6 ASchG specifies that, in addition to occupational health and safety officers and occupational physicians, other qualified experts can be engaged by the employer to perform workplace evaluations; such experts include chemists, toxicologists, ergonomists and above all occupational psychologists. This new provision lists examples of the experts to be engaged by the employer, while special consideration should be given to occupational psychologists when psychological stress is to be evaluated. Occupational psychologists are not considered prevention experts (only occupational health and safety officers and occupational physicians are regarded as such).

### Article 12§3

- The extension of long-term illness benefits to self-employed people (Social Insurance Amendment Act 2012 – Sozialversicherungs-Änderungsgesetz 2012, Federal Law Gazette I no. 123/2012);
- The extension of the list of occupational diseases covered for accident insurance purposes (vibration-induced vascular disorders, pressure damage, chronic diseases of the tendon

sheaths, peritendinum and muscular and tendinous insertions, as well as rhinopathy have been included);

- A reform of the disability pension system, with the introduction of a rehabilitation benefit (Act Governing Amendments to Social Law 2012 (Sozialrechts-Änderungsgesetz 2012), Federal Law Gazette I no. 3/2013) – the new benefit aims at encouraging rehabilitation and retraining and applies to persons with a temporary incapacity to work of at least 6 months; a rehabilitation allowance is furthermore introduced for persons not entitled to incapacity benefit because of the lack of permanent incapacity, but whose temporary incapacity for at least 6 months has been confirmed and where occupational measures are not practicable or not appropriate;
- The adoption in January 2014 of rules (Labour Law Reform Act 2013 (Arbeitsrechts-Änderungsgesetz 2013), Federal Law Gazette I no. 138/2013) enabling employees to take full-time or part-time leave, in agreement with their employers, in order to care for a close relative and receive care-leave benefits while maintaining their health insurance (to be paid by the Federal Government);
- As from July 2015, children and young people under the age of 18 needing orthodontic braces are entitled to receive such treatment as a benefit in kind without co-payment or payment of a contribution towards the cost of treatment by the insured;
- The introduction of relief measures for those caring for a disabled child and wishing to take out self-insurance and the creation of a non-contributory self-insurance scheme for people providing care for family members (Act Governing Amendments to Social Law 2015 (Sozialrechts-Änderungsgesetz 2015), Federal Law Gazette I no. 162/2015);
- The extension of full insurance coverage to participants to certain volunteers programmes, as specified in the Volunteer Act;
- The introduction of a temporary assistance allowance (Überbrückungsgeld) for unemployed construction workers who, in 2015, are close to their retirement age and cannot fulfil their work due to illness;
- The aggregation of periods credited towards the minimum period of unemployment – since 2015, specific periods such as military service or alternative civilian service, family hospice leave etc. are credited towards the duration of previous employment. The newly credited periods may also be part of the 156 weeks of unemployment insurance-covered employment within the preceding five years, for claiming 30 weeks of unemployment benefits;.
- As a result of an important administrative reform entered into force in January 2014, and of a Constitutional decision of December 2014, complaints concerning the granting of unemployment benefits have now a suspensive effect.

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## BELGIUM

### Article 3§2

- New legislation on the prevention of psychosocial risks at work was enacted during the reference period and entered into force on 1 September 2014, namely the Act of 28 February 2014 supplementing the Act of 4 August 1996, the Act of 28 March 2014 amending the Judicial Code and the Act of 4 August 1996, and the Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work;
- The Social Criminal Code contains offences relating to the prevention of psychological and social problems caused by work. It is based on the provisions of the Act of 4 August 1996 as amended by the Act of 28 February 2014, on the prevention of psychosocial risks at work including stress, violence and moral or sexual harassment at work. The Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work supplements these new provisions. Under the Act of 26 February 2016 (outside the reference period), the criminal provisions of the Social Criminal Code have been adapted to these new requirements;
- The Royal Decree of 10 October 2012 (Belgian Official Gazette of 5 November 2012) stipulates the basic requirements to be met by workplaces, including notably the general rules on layout, lighting, ventilation, temperature, communal facilities including sanitary installations and chairs for working and resting.

#### Article 3§3

- Under the Royal Decree of 10 July 2013 implementing Chapter 5 entitled “Regulation of certain aspects of the electronic exchange of information between those involved in combating illegal labour and social security fraud” of Title 5 of Book 1 of the Social Criminal Code, as amended by the Royal Decree of 26 December 2013, social inspectors from the Directorate General of Employee Well-being of Belgium’s Federal Public Service for Employment, Labour and Social Dialogue are allowed to issue infringement reports electronically.

#### Article 12§3

- Measures have been taken in the field of health to moderate the price of medicines and offer better protection to persons with chronic conditions, particularly by making it compulsory to include these persons in the direct payment system.

#### Article 30

- In the Flemish region, the Decree of 21 March 2003 on Combating Poverty was modified on 20 December 2013 allowing the Flemish Authorities to subsidise local governments with a view to developing and supporting local initiatives to combat specifically child poverty.
- In the Walloon region, a number of measures have been taken since 2012 to adopt an overall and coordinated approach with a view to promoting access to social rights such as employment, housing, culture and medical assistance. On 10 September 2015, a first cross-cutting plan to combat poverty was adopted in order to provide concrete and effective answers to precise difficulties encountered by people living at risk of poverty.
- The Government of the German-speaking community prepared in 2013 an analysis of poverty and the social vulnerability of its community which led in 2014-2015 to action divided up into three phases: (1) identification of the characteristics of the population targeted by social action and the way in which assistance is deployed on the territory, following a comparison with the other Communities of the Federal State of Belgium; (2) collection of data using a sample of real life stories; (3) analytical phase, allowing the German-speaking community to set up a network of social action.
- The Federal State and the federated entities signed in 2014 a Cooperation Agreement on Homelessness and the Lack of Housing aiming at pursuing, coordinating and harmonising their policies to prevent and fight against homelessness and lack of accommodation.

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### **BULGARIA**

#### Article 3§1

- As part of the project on “Prevention for Occupational Safety and Health”, practical tools for evaluation of the risk at the workplace (relating to 30 economic activities) were developed. There is an interactive instrument for risk evaluation which is available to all employers, officials and workers through the OiRA platform. The tools allow employers, both Bulgarian and European, to carry out alone, without hiring external consultants, the risk assessment mandatorily required by the law in their enterprises, as well as to conduct trainings and briefings to their workers and employees.

#### Article 3§2

- Law amending and supplementing the Health and Safety at Work Act (SG, No. 27 of 2014) was adopted. The Law creates the legal basis for issuing authorisations for special and technological blasting operations and a further set of amendments expands the rights of workers regarding the control of working conditions. The Ordinance on the minimum requirements to the microclimate of the working environment (SG, No. 63 of 2014) also was adopted. It sets minimum requirements for the protection of workers from health and safety risks arising from the microclimate parameters of the working environment in buildings and from adverse weather conditions when working outdoors; it also defines limit values of the

microclimate parameters of the working environment on buildings (provisions for temperature, humidity and air movement).

#### Article 3§3

- New Organic Rules of the executive Agency of the General Labour Inspectorate was adopted by the Council of Ministers, (Decree No. 83 of 22 April 2008, SG, No.44 of 9 May 2008). The new Rules provided a new structure of GLI EA where the number of Labour Inspectorate directorates was decreased from 28 in 2008 to 21 in 2014. The number of the staff in GLI EA is 495 payroll positions. In addition, the aforementioned Organic Rules were repealed by Decree No.2 of 13 January 2014 of the Council of Ministers, effective from 29 January 2014 (SG, No.6 of 21 January 2014). According to the new Organic Rules, the staff number of the Agency was not changed. The new rules again changed the territorial structure of the Agency, as a Labour Inspection directorate general was created for the first time, and comprises 28 Labour Inspection territorial directorates (the number of the directorates was increased). The structure follows the administrative division of the country, and the directorates are positioned in the administrative centres of the regions of the state;
- According to the report, the GLI EA performs its activity by exerting complete control over the observance of the labour legislation in all sectors and activities; exerting the specialised control over the observance of the Health and Safety at Work Act, the Employment Encouragement Act, the legislation related to the performance of civil service and the rights and obligations of the parties to a civil-service relationship, and of other legal instruments, when a law requires from it to do so; giving information and technical advice to employers and employees about the most effective methods of observance of the labour legislation, of the legislation regulating health and safety at work, and of other legal instruments, the control over which is vested in the Agency by an act. Moreover, the Agency notifies the competent authorities of gaps and defects found in the labour legislation in force.

#### Article 3§4

- An Ordinance on the Basic Norms of Radiation Protection (SG No.76 of 5 October 2012) was adopted. It contains special provisions concerning an evaluation of the irradiation and medical surveillance. According to this Ordinance, workers exposed to radiation are subject to mandatory medical surveillance in order to establish their health condition and their suitability from a medical standpoint to perform the tasks they are assigned with. The medical surveillance of workers is implemented by healthcare and/or medical establishments. Enterprises and specialised control authorities are bound to submit to healthcare establishments information for the parameters of working environment, conditions of work and the results from the individual monitoring.

#### Article 12§3

- The personal scope of mandatory insurance for general sickness and maternity, disability on account of a general sickness, old age and death, labour accident and occupational disease and unemployment has been extended to workers and employees hired for up to 5 working days (40 hours) over the calendar month and persons entrusted with the management and / or control of state and municipal enterprises under Chapter Nine of the Commercial Code, their subsidiaries or other legal entities established by law (in 2015); as well as to other categories of workers (candidate junior judges and junior prosecutors in 2012, persons under the Special Surveillance Means Act in 2013).
- The personal scope of insurance for invalidity on account of a general sickness, old age and death and for general sickness and maternity has also been extended, in 2012, to spouses of self-employed persons, craftsmen and farmers (as voluntary insurance).
- The personal scope of insurance for invalidity on account of a general sickness, old age and death and for labour accident and occupational disease has been extended in 2015 to seasonal agriculture employees.
- All labour (contributory) pensions have been increased (for the Public pension insurance, the increase was around 8% during the reference period), to compensate the inflation and an indexation rule (so called "Swiss rule") has been set and applied as from 2014.

- The social pension for old age was also increased (by some 14% during the reference period), as well as the benefits based on the level of the social pension (labour accident benefit, invalidity pension and survivor's pension).

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## ESTONIA

### Article 3§1

- The Health and Safety at Work Network inside Estonia was re-established in 2012. Its aim is the development of the field of occupational health and safety issues by providing a framework for institutions that enables the use of health and safety information, experience and knowledge in a more efficient way among the network members.
- An electronic tool "Tööbik" has been developed in 2011-2015. It enables an enterprise to administer data related to its work environment, to conduct risk assessment and to maintain necessary data bases.

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## FINLAND

### Article 3§4

- A Government Decree on Good Occupational Health Practice Principles, Content of Occupational Health Care, and Education of Occupational Professionals and Experts (708/2013) took effect on 1 January 2014. The Decree underlines active cooperation between occupational health care professionals and the workplace in maintaining work ability of the workforce and also obligated occupational health units to develop and to follow the quality and the effectiveness of their services.

### Article 12§3

- In 2014, the qualifying period for unemployment benefits was shortened from 34 weeks to 26 weeks for employees and from 18 to 15 months for self-employed persons (amended Unemployment Security Act, No. 1049/2013).
- As from 2013, the income of the beneficiary's spouse is no longer taken into account when assessing entitlement to the non-contributory unemployment benefits (labour market support), which has reduced unemployment periods without benefits.
- As of the beginning of 2014 (amended Health Insurance Act, No. 1197/2013), entitlement to parenthood allowance (maternity, paternity or parental allowance) has been extended to people covered by the Finnish social security system for at least 180 days immediately before the due date of birth of the child. Previously, the Act required the person to have lived in Finland for the same period of time, which meant that foreigners from "third countries", regularly working in Finland and covered by the Finnish social security system but not satisfying the length of residence condition were excluded from the parenthood allowance.
- At the beginning of 2013, another amendment to the Health Insurance Act, extended a father's right to paternity allowance to 54 working days; fathers can choose to stay at home and be entitled to paternity allowance for 1 to 18 days at the same time as the child's mother is paid maternity or parental allowance. The rest of the paternity allowance can be paid after the parental allowance has ended. Fathers can also, if they wish so, use all of the paternity allowance entitlement after the parental allowance period, but before the child is two years old.
- Through further amendments to the Health Insurance Act (No. 1224/2004), in 2014, partial sickness-allowance was extended from 72 days to 120 days (No. 972/2013).
- The Disability Benefits Act (No. 570/2007) was amended to the effect that, as of 1 June 2015, the specific costs resulting from the illness, impairments or injuries are better taken into account when deciding the level of the benefits granted; as a result, according to the report there would be approximately 10 000 newly eligible minimum basic benefits recipients over 16 years of age by the end of 2020. The amendment will extend benefits, inter alia, to those who are under the threat of disability, such as people suffering from long-term mental and behavioural disorders, those with multiple sclerosis or rheumatoid arthritis, or persons with cerebral palsy.

- Another amendment concerning rehabilitation took effect at the beginning of October 2015, whereupon the person being rehabilitated can receive a partial rehabilitation allowance for those rehabilitation days when he/she is working part-time alongside the rehabilitation.

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## FRANCE

### Article 3§1

- A framework agreement on the prevention of psychosocial risks in a public service jobs was signed by all the employers' representatives and most trade unions and a Prime Ministerial Circular on the implementation of the framework agreement was signed on 20 March 2014.
- The Law of 17 August 2015 on social dialogue and employment set up a system for the representation of employees and employers in companies with fewer than 11 employees through regional interoccupational joint committees (CPRIs) set up on 1 July 2017 whose task is to provide information, advice and co-ordination relating to the specific problems of very small companies, particularly with regard to working conditions and health.

### Article 3§2

- Decree No. 2012-639 of 4 May 2012 on the risks of exposure to asbestos adds a requirement to Article R. 4412-100 of the Labour Code for employers to respect an occupational exposure limit value of 100 fibres/litre of air inhaled over eight hours of work and provides for this value to be lowered to 10 fibres/litre from 1 July 2015 onwards.
- Decree No. 2015-789 of 29 June 2015 on the risks of exposure to asbestos also adds a requirement to Article R. 4412-110 of the Labour Code for employers to provide workers with individual protection equipment ensuring that this exposure limit is respected and to assess the risks of exposure to asbestos.

### Article 12§3

- Improvement in 2014 in access to health care through the extension of supplementary universal health coverage (CMU-C) and assistance for the payment of supplementary health insurance (ACS); the number of recipients of these benefits grew by 6.5% and 3.9% respectively between 2013 and 2014, reaching a total of 6 million persons covered by the end of 2014.

### Article 13

- The Act of 17 August 2015 on social dialogue and employment introduced the Activity Premium. Financed by the State, the Activity Premium is a supplement to income for low-income workers. According to the report, young people between the ages of 18 and 24, whether employed or self-employed, are now eligible for this allowance.

### Article 23

- France has implemented a secure information system which facilitates quantitative and qualitative analysis of reports received on the national listening and assistance hotline in order to respond to situations where elderly people, among other people, who are living at home or in institutions are being abused.

### Article 30

- Numerous measures have been undertaken to combat poverty and exclusion, both on the prevention side and on accompanying people living in poverty, in particular within the Multi-annual Antipoverty and Social Inclusion Plan (2013-2017), which is overseen by the Government, has an inter-ministerial nature and was designed by a number of players, including individuals experiencing hardship. The Plan has led to decompartmentalising social policies.

## **GEORGIA**

### Article 12§3

- The launching of a Universal Healthcare Programme in February 2013, by virtue of which the personal coverage of health care has been significantly extended, from 29.5% of the population in 2010, to 100% after 2013. The Universal Healthcare Programme covers the basic package of planned and emergency in- and out-patient clinical care, including oncology and maternity services;
- The extension, in 2013, of paid maternity leave from 126 to 183 days (and from 140 to 200 days in case of complications) and the increase of minimum maternity benefits from GEL 600 to GEL 1000 (€382 at the rate of 31/12/2015).

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## **IRELAND**

### Article 3§1

- The online risk assessment tool, BeSMART, which supports and assists small business to deal with health and safety in their workplaces, was further developed in the period 2013-2015. It caters for more than 250 different business types. In 2015, the number of BeSMART users increased by 6,896 users to bring the total users to 30,278 by year end. In addition, the HSA launched two new modules for the high risk construction and agribusiness sectors.

### Article 12§3

- The extension of voluntary social insurance coverage (as regards the contributory old-age state pensions and the maternity/paternity benefits), in 2014, to certain spouses and civil partners of people who are self-employed.
- The introduction in 2012 of a new Partial Capacity Benefit scheme, which allows people with disabilities who can work to avail of employment opportunities while continuing to receive an income support payment.

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## **LATVIA**

### Article 13§1

- Among the categories of residents who are defined in Regulation No. 1529 as exempted from a patient contribution are poor persons who have been recognised as such in accordance with the regulations regarding the procedures by which a family or a person living alone shall be recognised as poor.

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## **LITHUANIA**

### Article 3§1

- The General Regulations for Assessing Occupational Risks were amended and entered into force as of 1st November 2013. The Regulations contain revised concepts and provisions relating to the organisation and performance of risk assessment and set out that the assessment of a risk at the workplace is followed by the filling in of a document in the form chosen by the enterprise. Enterprises having conducted a self-assessment of occupational risks in accordance with the Regulations review and revise the assessment of or reassess occupational risks according to Paragraph 5 of the General Regulations for Assessing Occupational Risks.
- The Online Interactive Risk Assessment (“OiRA”) tools are being developed seeking to help small and medium size enterprises to assess the risks on their entities.

### Article 12§3

- From 1 January 2012, payment of old age, work incapacity (disability) and survivors’ pensions (widow’s/widower’s and orphan’s pensions), which had been temporarily reduced in 2010–



2011 (see Conclusions 2013), was restored to the full amount. As a result, in 2012, the average amount of old-age pension increased by around 9% compared to 2011.

- As of 1 January 2015, sickness allowances paid from the State Social Insurance Fund budget were increased by approximately one third, following the amendment of the Law on Sickness and Maternity Social Insurance. As a result, the sickness allowance was brought to 80% of the beneficiary's compensatory salary for the whole length of the sick leave, while until end 2014 only 40% of it was paid from the third to seventh day of sick leave.
- Sickness and maternity/paternity insurance was extended in 2015 to students and graduates under the age of 26, exempting them from the qualifying period requirements, provided that they start working within 6 months (as regards sickness insurance) or 12 months (as regards maternity/paternity insurance) from the completion of their studies. Until the end of 2014, young people starting work after completing their studies were only exempted from the qualifying period requirement if they started working within 3 months from the graduation.
- A Law on Compensation of State Social Insurance Old-Age and Lost Capacity for Work (Disability) Pensions, entered into force on 22 May 2014. The law provided for the payment of compensatory benefits to those who received reduced old-age and disability pensions in 2010–2011, because of the economic crisis, as well as to their heirs, if the beneficiaries has died after the entry into force of the law. The compensatory amounts were paid in instalments, between end 2014 and 2016, to around 500 000 people, for a global cost of around €99 000 000. Another law (Law on Compensation of State Social Insurance Old-Age Pensions and State Pensions Reduced by Taking into Account Available Insured Income), adopted on 30 June 2015, provides for further compensatory amounts to be paid in instalments between 2016 and 2018 to some 84 400 beneficiaries of Old-age pensions which were reduced in 2010-2011 (the global amount involved is expected to be around €120 600 000).

#### Article 12§4

- Amendments to the Law on Pension which remove the length of residence requirement for old age pension, widows and survivor's benefits have been adopted, so that social security benefits are henceforth only based on the social insurance record. The amendments entered into force in 2014 provide for the payment of state social insurance pensions to any person, whether he or she is a Lithuanian national or a national of third country, who paid the compulsory contributions to the State Social Insurance Fund budget, irrespective of his or her presence in Lithuania.

#### Article 13§1

- The amendments to the Law on Cash Social Assistance for Poor Residents established a legal basis for cash social assistance for persons in need. Municipalities provide cash social assistance for poor residents under equal conditions (both social benefits and compensations) as of 1 January 2015 by fulfilling their independent municipal function.

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## MALTA

#### Article 3§1

- The OHSa in collaboration with the EU-OHSa has developed a risk assessment tool (Online interactive Risk Assessment (OiRA)) which can be used for work in an office setting. The tool has been developed in the Maltese language and is based on Maltese occupational health and safety legislation.

#### Article 12§3

- Measures taken in favour of pensioners (exemption from taxes when the pension rate is equal to the national minimum wage; lowering of the age requirement – from 80 years old to 78, and then to 75 – for the granting of a €300 yearly allowance for elderly who continue to live in their residence; award of full widow pensions even when the beneficiary is employed).
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## REPUBLIC OF MOLDOVA

### Article 12§4

- During the reference period, the Republic of Moldova concluded social security agreements with Belgium, Poland, Hungary and Lithuania.

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## MONTENEGRO

### Article 3§2

- On 25 July 2014, the Parliament of Montenegro adopted the Law on Safety and Health at Work (Official Gazette No. 34/14), which replaces the former Law on Safety and Health at Work (Official Gazette No. 79/04 and 26/10). According to the new law, the employer is obliged to provide measures of safety and health at work to all employees, by preventing, eliminating and controlling risks at work, informing and training employees, and with proper organisation and the necessary means. In addition, the employer is obliged to provide special safety and health at work to women during pregnancy, persons under 18 years of age, and persons with disabilities.

### Article 12§4

- During the reference period, Montenegro concluded bilateral social security agreements with Romania and the Slovak Republic.

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## PORTUGAL

### Article 3§2

- The Ministerial Order No. 40/2014 of 17 February 2014 laid down the norms governing the correct removal of materials containing asbestos and the packaging, transport and management of the construction and demolition waste generated, with a view to protect the environment and human health.

### Article 3§4

- The Law No. 42/2012, which approved the regimes governing access to and pursuit of the professions of senior occupational safety specialists and occupational safety specialist, repealed Article 100 of Law No. 102/2009, under which employers could commit a serious administrative offence if they hired a specialist who did not fulfill the requisites laid down in Article 100(1).

### Article 12§3

- As regards unemployment benefits, the qualifying period was shortened from 450 to 360 days of registered work during the previous 24 months and new rules were introduced, which extend the coverage of unemployment benefits to certain self-employed persons (Executive Law no. 65/2012 of 15 March 2012, Executive Law no. 12/2013 of 25 January 2013).
- As regards sickness benefits, the coverage was extended as a result of a modification in the way the reference pay is calculated, i.e. by taking into account the whole period from the beginning of the reference period till the day before the occurrence of the incapacity for work (Executive Law no. 133/2012 of 27 June 2012).
- Entitlement to invalidity pensions was extended as a result of the adoption of new rules (Executive Law no. 246/2015 of 20 October 2015) which take account of the person's objective permanent incapacity for work, regardless of the causes (before the adoption of this law, only invalidity resulting from a specific list of diseases was recognised as such).

Article 12§4

- The 5-year time limit for claiming survivors' pension was cancelled.

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**SERBIA**

Article 30

- A new mechanism has been launched at national level for those municipalities and cities which do not have means to launch social care services: the so-called "earmarked transfer", which under the law regulating funding of local governments, can fund several social care services from the State budget.

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**TURKEY**

Article 12§3

- The number of people insured for old age has increased by 19% (from 17 076 451 to 20 380 319) from 2011 to 2015, while the total population growth in the same period was below 6% (from 74 525 696 to 78 741 053).
- In 2013, the personal coverage of healthcare insurance has been extended to children below 18 years old who were not already covered on account of their family or guardians, to persons under a protective injunction (victims of domestic violence), to persons training to work in penal institutions and jails and their families, to persons who graduated from high-schools or higher education in the last two years (subject to age conditions) and were not already covered as dependants.
- In 2014 (Law No. 6552) the time limit for survivors to claim their pension has been extended from 6 to 12 months.
- In 2014 and 2015, certain measures have been taken in favour of workers performing underground works in the mines, in particular their earliest pensionable age has been set for 50 years (instead of 55) for those who worked underground for at least 20 years (Law No. 6552) and favourable provisions have been taken in favour of survivors of miners deceased because of work accidents in coal and lignite mines in the last ten years (Law No. 6645).

Article 13

- New legislation in Turkey to strengthen the link between social assistance and the labour market (Law No 6704) was adopted on 14 April 2016.

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**UKRAINE**

Article 30

- A reform of subsidies was implemented in 2014-2015 aiming at simplifying procedures and strengthening social protection.
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## Appendix VI

### Warning(s) and Recommendation(s)

#### Warnings<sup>25</sup>

##### *Article 3 – Right to safe and healthy working conditions*

##### *Article 3 paragraph 2 – To issue safety and health regulations*

#### **HUNGARY**

- Self-employed and domestic workers as well as other categories of workers are not protected by occupational health and safety regulations.

##### *Article 3 paragraph 3 – To provide for the enforcement of safety and health regulations by measures of supervision*

#### **REPUBLIC OF MOLDOVA**

- The labour inspection system is inefficient.
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##### *Article 11 – The right to protection of health*

##### *Article 11 paragraph 1 – to remove as far as possible the causes of ill-health*

#### **AZERBAIJAN**

- The measures taken to reduce infant and maternal mortality have been insufficient;
- Public healthcare expenditure is too low.

#### **GEORGIA**

- The measures taken to reduce infant and maternal mortality have been insufficient.

#### **REPUBLIC OF MOLDOVA**

- The measures taken to reduce infant and maternal mortality have been insufficient.

#### **ROMANIA**

- The measures taken to reduce infant and maternal mortality have been insufficient.

#### **UKRAINE**

- The measures taken to reduce infant and maternal mortality have been insufficient;
  - Insufficient measures have been taken to effectively guarantee the right of access to health care.
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<sup>25</sup> If a warning follows a notification of non-conformity, it serves as an indication to the state that, unless it takes measures to comply with its obligations under the Charter, a recommendation will be proposed in the next part of a cycle where this provision is under examination.

**Article 12 - Right to social security**

**Article 12 paragraph 1 – To establish or maintain a system of social security**

**GEORGIA**

- the number of risks covered by the system of social security is inadequate, as there is no provision for family benefits, unemployment benefits or work injuries/occupational diseases benefits.

**Recommendation(s)**

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**Renewed Recommendation(s)**

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## Appendix VII

### **Message from the Governmental Committee of the European Social Charter and the European Code of Social Security to the Committee of Ministers of the Council of Europe**

#### *Social rights still need protection and investment*

A contribution to the reflection on priorities for the Council of Europe on the occasion of the 70th anniversary

The Governmental Committee is part of the Council of Europe monitoring procedures and bodies designed to supervise the respect of social rights in member states, as embodied in the European Social Charter (of 1961 and Revised Charter of 1996) and in the European Code of Social Security (1964 and Revised Code of 1990). In particular, the European Social Charter, a fundamental European human rights treaty that has been signed by all 47 member states of the Council of Europe and ratified by 43 of them, provides a basis for monitoring implementation in this area of human rights across the continent.

Council of Europe member states have repeatedly reaffirmed their commitment to the protection of all human rights, whether civil, political, social, economic or cultural. This commitment is fully shared by the Governmental Committee. The effective implementation in law and in practice of all social rights guaranteed by the Charter should be a priority for all member states.

The mechanisms in place to promote the respect of social rights must be supported and any new Council of Europe strategy should preserve and further develop them. The Governmental Committee supports the mandate given by the Committee of Ministers to the CDDH (and CDDH-SOC) to examine and make proposals for improving the implementation of social rights in member states. Although the process has advanced the Governmental Committee stands ready to contribute to the discussion and to that objective.

Social rights are closely linked to the UN 2030 Agenda for Sustainable Development and the Sustainable Development Goals. Leaving no one behind applies as much to Europe as it does elsewhere. It is a "social progress" objective and, as such, it is in the core of the mandate given to the Council of Europe by its member states through the Statute. Social rights are a major factor in ensuring social cohesion and promoting social justice, for sustainable development and in the sustainability of democracy.

The erosion of social rights is not alien to some troubling present-time developments. Social vulnerability can lead to lack of trust in the political system. This erosion can also undercut democracy's corrective mechanisms, such as collective bargaining between the social partners. The social contract has to adjust to new realities, including the changing world of work and ageing population.

At a time when the European Union Pillar of Social Rights is at an early stage of its implementation, the Council of Europe should continue to enhance its activities and to develop synergies with the European Union to promote the consolidation, implementation and further development of social rights. The Council of Europe has the mandate and the tools to advance the discussion on the future of social rights and of their place in a democratic society that upholds the whole range of human rights.

The Governmental Committee therefore invites the Committee of Ministers to place social rights high on the Council of Europe agenda and ensure their prominence in the outcome document envisaged for the Ministerial Conference to be held in Helsinki in May 2019. The Governmental Committee would encourage the Council of Europe to be central to a process towards elaborating through multi-stakeholder dialogue a common understanding of the social contract fit for the 21st century.

We stand ready to play a role in the follow up decided by the Committee of Ministers, in close dialogue with relevant Council of Europe bodies and other entities.