Strasbourg, 31 January 2019

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EUROPEAN SOCIAL CHARTER

GOVERNMENTAL COMMITTEE

REPORT CONCERNING CONCLUSIONS XXI-2 (2017) OF THE 1961 EUROPEAN SOCIAL CHARTER

(Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Luxembourg, Poland, Spain and United Kingdom)

Detailed report of the Governmental Committee established by Article 27, paragraph 3, of the European Social Charter[1]

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.

[1] The detailed report and the abridged report are available on 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)[2]. 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.

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 Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Luxembourg, Poland, Spain and the United Kingdom. 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 XXI-2 (2017) of the European Committee of Social Rights were adopted in December 2017 (Croatia, Czech Republic, Denmark, Germany, Poland, Spain and the United Kingdom). Greece, Iceland and Luxembourg submitted their reports with a significant delay; therefore their conclusions were adopted in March 2018.

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

[2] 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.

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 31th 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 the Committee of Ministers on "social rights still need protection and investment in the future" as a contribution to the celebration of the 70th Anniversary in 2019 (see 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 XXI-2 (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.

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 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 2 States (Croatia and the Czech Republic) and concerned a total of 3 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 XXI-2 (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,[3]
>
> 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 Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Luxembourg, Poland, Spain and United Kingdom;
>
> Considering Conclusions XXI-2 (2017) of the European Committee of Social Rights appointed under Article 25 of the Charter;
>
> 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 XXI-2 (2017) of the European Committee of Social Rights and in the report of the Governmental Committee.

[3] 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.

III. Examination by Article

1961 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 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/cm3. 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.3.1 ESC Safety and health regulations

Ground of non-conformity to be discussed:

Article 3§1 ESC - Insufficient coverage for self-employed workers by health and safety regulations

ESC 3§1 GERMANY

The Committee concludes that the situation in Germany is not in conformity with Article 3§1 of the 1961 Charter on the ground that certain categories of self-employed workers are not sufficiently covered by the occupational health and safety regulations.

46. The Secretariat noted that the situation had been not in conformity with the Charter since 2007.

47. The representative of Germany provided the following information, orally and in writing:

"In this period under review, too, there is a broad spectrum of measures in Germany to promote the occupational health and safety of the self-employed. These measures tackle both the level of legal provisions and are effective in specialist/content terms. Under the law, the possibility exists to make the self-employed compulsorily insured in statutory accident insurance by applying the statutes of the accident insurance funds, and hence to place them under the protection of the accident prevention regulations (section 3 of Book Seven of the Social Code). Self-employed persons working in agriculture are already compulsorily insured in accident insurance by force of law. In the period under review and also in future, all self-employed persons have and will have the possibility at any time to voluntarily comply with the occupational health and safety regulations applicable to employers and employees. However, in line with European law principles, there is no general application of the legal provisions on safety and health at work to self-employed persons. Insofar there have been no changes in Germany's position as against the period covered by the previous report. Their legal status alone precludes that an employer's duty of care to his/her employees applies to self-employed persons as well."

48. The representative of Ukraine proposed to take note of the information provided on developments and asked whether Germany had received comments from the CEACR on ILO Convention no. 189 on decent work for domestic workers.

49. The representative of Germany said he was not aware of comments of this sort.

50. The ETUC representative asked whether other self-employed workers were required to take out insurance and wondered how it was possible to cover one sector and not the others.

51. In answer to the question from the ETUC representative, the representative of Germany also mentioned employees in the building and public works sector.

52. The Chair asked whether compulsory insurance concerned only the agricultural sector or others as well.

53. The representative of Germany confirmed that it is was only the former.

54. The representative of the Netherlands expressed concern about the non-compliance situation, which had lasted more than ten years, and about the fact that the representative of Germany referred to EU legislation but not to that of the European Social Charter. In most CoE Member States, there are gaps in the national legislation regarding the protection of the self-employed in this matter. Legislation to ensure that self-employed persons are protected by regulating their health and safety at work is especially important, where employed and self-employed workers are employed on the same work-place.

55. The ETUC representative agreed with the representative of the Netherlands about the importance of the matter. In the light of the information supplied, he wondered whether certain regulations had been abolished.

56. The representative of Germany said that the regulations had not been abolished and that self-employed workers had always had the possibility of voluntary compliance with health and safety regulations. There were no draft regulations in the pipeline.

57. The Chair asked whether this signified that the situation remained unchanged.

58. The representative of Germany said there had been no changes up to that point.

59. The representative of the Netherlands asked whether the adoption of a Committee of Ministers recommendation on non-compliance with the Charter might help to change the situation in Germany. A similar situation had arisen in the Netherlands, but in response to pressure from the ECSR the situation had changed.

60. The representative of Germany said this was a difficult matter, adding that the Netherlands example might be useful and that he could refer to his superior.

61. To summarise, the Chair said that the situation was unchanged and that no one had asked for a vote.

62. The ETUC representative thought that a strong message should be sent to Germany about the reasons for the non-compliance finding.

63. The Governmental Committee urged the German authorities to bring the situation into line with Article 3§1 of the 1961 Charter. In the meantime it decided to await the ECSR's next assessment.

Article 3 – The right to safe and healthy working conditions

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

64. 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.

65. 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.

66. 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).

67. 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.

68. 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.

69. 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.

70. 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.

71. 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.

72. 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.

73. Enforcement of laws and regulations by the labour inspectorate

74. 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

75. 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

76. 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.

77. 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

78. 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.

79. Consultation with employers' and workers' organisations

80. 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.

81. 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.

82. 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.

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

Article 3.2 ESC and Article 3§3 RESC – Measures to reduce the number of fatal accidents are inadequate and/or insufficient labour inspections to monitoring of health and safety compliance

ESC 3§2 LUXEMBOURG

The Committee concludes that the situation in Luxembourg is not in conformity with Article 3§2 of the 1961 Charter on the ground that measures taken to reduce the number of fatal accidents at work are insufficient.

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

84. The representative of Luxembourg said that although the number of fatal accidents in the workplace had remained stable, the rate of fatal occupational accidents as a proportion of active employees had declined. Moreover, the labour inspectorate was working on a national occupational safety and health strategy. There had been 22 fatal accidents at work in 2015, 11 of which were road accidents (on the way to or from work). So the latter accounted for half of all occupational accidents. Of the eleven remaining accidents, four were due to illness, since under Luxembourg law persons who, for example, had a heart attack in the workplace were deemed to have suffered an occupational accident, even though the employer was probably not involved in the situation. Thus, of the 22 accidents, there remained seven which were occupational accidents in the true sense of the term. Based on these figures, the labour inspectorate had established a new department concerned solely with monitoring construction and industrial sites, which is where the majority of occupational accidents, including fatal ones, occurred. The department would come into operation in May 2018.

85. The representative of Ukraine proposed that the Governmental Committee take note of the information received and invite the Government of Luxembourg to take the necessary measures to bring the situation into line with Article 3§2 of the 1961 Charter.

86. The ETUC representative welcomed the developments and asked for confirmation that the new department would only be concerned with accidents not occurring on journeys to and from work. He also asked what reasons were behind the disparities between the statistics presented to the Governmental Committee (22 fatal occupational accidents in 2015) and those for the same year in the national report (14 accidents).

87. The representative of Luxembourg said that this was because when the national report was being prepared not all of the relevant fatal accidents had been registered, so the 2015 figure had changed. In connection with road accidents, the Government encouraged employees to use public transport, particularly trains. It was also planned to add a lane to the most frequently used motorway, on which 90 000 French transfrontier workers travelled to work in Luxembourg. Luxembourg's active population was doubled each morning by these transfrontier workers. However, the government had very few means at its disposal of reducing the number of fatal road accidents.

88. The Governmental Committee welcomed the positive progress made in Luxembourg, took note of the information supplied and decided to await the ECSR's next assessment.

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

89. 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.

90. Material and Personal Coverage

91. 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.4

92. A fundamental feature of a social security system compliant with the Charter is that it must be collectively financed5, 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.).

93. 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.6 7 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.

94. 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:

[4] Conclusions XIII-4 (1996), Statement of interpretation on Article 12
[5] Conclusions 2006, the Netherlands
[6] Conclusions 2006, Bulgaria
[7] Conclusions 2013, Georgia

- 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).

95. 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.

96. 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 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.

97. Adequacy of social security benefits

98. 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.

99. 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.

100. 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 allowances8 9 10. In this respect, it was recalled that Article 12§1 dealt with social security, while social assistance was examined under Article 13§1.

101. 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.

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

- the length of payment of unemployment benefits[11], 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 [12];
- the conditions under which sickness benefits can be refused, suspended or cancelled, which should not be linked to the nature and origin of sickness[13].

103. 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.

104. 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.

[8] Conclusions 2013, Austria
[9] Conclusions 2013, Finland
[10] Finnish Society of Social Rights c. Finlande, complaint No. 88/2012, decision on the merits of 9 September 2014, §§59-63
[11] Conclusions 2006, Malta
[12] Conclusions XVIII-1 (2006), Germany
[13] Conclusions 2013, Slovak Republic

ESC 12§1 GREECE

The Committee concludes that the situation in Greece is not in conformity with Article 12§1 of the 1961 Charter on the grounds that:

- ***during the reference period, a significant percentage of the population was not adequately covered in respect of healthcare;***
- *[the minimum level of unemployment benefit for beneficiaries without dependants is inadequate].*

First ground of non-conformity

105. 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 first time (while the situation was not in conformity as regards the level of unemployment benefits for beneficiaries without dependents since 2009). She referred to the general presentation on Article 12§1 and the criteria used in assessing coverage of social security systems (see above), which required the great majority of the overall population to be covered in respect of healthcare. The Secretariat noted that, in the case of Greece, the finding of non-conformity resulted from the data on healthcare coverage which Greece had provided in its report, according to which less than half of the total population was covered in respect of healthcare, and asked whether there had possibly been a misunderstanding in the data provided.

106. The representative of Greece confirmed that indeed the data provided in the report only concerned employees covered by IKA insurance scheme and not the general population, as any person registered with social security benefited in fact from universal healthcare coverage in law and practice. She also indicated that, following a reform in 2016, the situation should be clearer in future as a single social security system would apply. She provided in writing the following detailed information:

"*Healthcare concerns the provision of benefits in kind and in cash and is one of the first risks covered by compulsory social security in 1935. The coverage of sickness by Social Security is aimed at preventing illness, restoring health and the ability to work for insured persons, supplementing their income at the time they are away from their work without receiving any salary or income. In addition, the illness covers physiological conditions such as pregnancy, childbirth, childbirth, death (funeral expenses), old age with the provision of home help to the elderly, financial support to cover hospitalization costs in chronic care or rehabilitation units at home.*

The entire population of the country is protected for the risk of illness: workers (employed, self-employed, farmers, fishermen, sailors, etc.), pensioners and members of their families. Also, the unemployed and their family members continue to be covered by social security according to the special provisions for sickness benefits in kind.

NEW LAW - REFORM According to the no. 1, par. 2, of Law 4387 / 12.5.2016 GG 85 A "Social security, health and social welfare are the right of all Greek citizens and all those residing permanently and legally in Greece. The State has an obligation to ensure the sustainability of the single social security system and to provide benefits to all those who meet the legal requirements. "

By the provisions of article 33 of Law 4368/2016, the right of free access to all public health structures, the provision of nursing and health care, uninsured and vulnerable social groups

only by using the social security number (so called AMKA) and coverage by EOPYY. The most fundamental change introduced by the above institutional and regulatory framework is the equalization of the right of uninsured persons with insured persons to access the public health system. The health care guaranteed by the new framework includes the nursing, diagnostic and pharmaceutical coverage of uninsured persons and their family members. This ensures the necessary health care for the beneficiaries and their medical protection.
With regard to the statistical data of the report on the implementation of the ESC (2012-2015) of our country, to which the European Committee on Social Rights refers, we know that these figures refer only to employees employed by the private sector, i.e. do not include self-employed, seafarers, farmers or public sector employees. Particularly:
- The number of 5 121 494 persons reported directly or indirectly for health care in 2011 is reported only to private sector employees and not to the whole population of the insured population in Greece;
- Similarly, the number of 811 185, who according to the report receive an old-age pension in 2015, is only for private sector employees;
- The figure of 176 449, the persons who, according to the report, are entitled to sickness benefits in the year 2015, refers to the number of recipients who received the sickness benefit in cash, i.e. those who exercised the right, and not to all the insured persons for that risk. Similarly, allowances only concern private sector employees.
- Data on minimum sickness, accident and invalidity benefits thresholds are accurate for private-sector insured employees."

107. The Secretariat thanked the representative of Greece for the information provided, confirming that the whole population was covered in respect of healthcare and noted that the next report on Article 12§1 should also provide information on the number of persons or proportion of the active population insured under each other branch of social security. If mandatory insurance applied for certain branches, the report should indicate which categories of persons were covered and which were excluded, and provide information on the size of these categories.

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

109. At the end of the examination of conclusions of non-conformity the Chair congratulated the Secretariat for the excellent work of preparation and organisation of the meeting.

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

ESC 12§4 DENMARK

The Committee concludes that the situation in Denmark is not in conformity with Article 12§4 of the 1961 Charter on the ground that the ten-year residence requirement imposed on nationals of States Parties not covered by EU regulations or bound by bilateral agreement with Denmark for entitlement to an early retirement pension for persons with disabilities or to ordinary old-age pensions is excessive.

110. The Secretariat recalled that Article 12§4 concerns coordination of social security systems. First, States must ensure equal treatment with nationals of persons

moving across States. Both direct and indirect discrimination is covered. States can ensure this principle in different ways, such as by concluding bilateral agreements or by taking unilateral measures to ensure that everybody is treated equally. This provision also covers export of benefits (accrued rights). The Appendix to the Charter provides that the State concerned can require a completion of a period of residence for non-contributory benefits but not for contributory benefits.

111. The Danish representative provided the following information:

In Denmark, the scheme for old age and early retirement pension is tax financed and based on the principle of universalism. The main rule is that the right to receive pension will require a Danish citizenship, as the entitlement is earned based on the number of years in which a person has been resident in Denmark. It is irrelevant whether the person concerned has worked or paid taxes in Denmark.

Having said that, the Danish citizenship requirement can be exempted

- *If the person concerned is covered by the EU Regulation No. 883/04 on coordination of social security systems.*
- *If the person has another nationality - from a country that has a bilateral agreement with Denmark.*
- *If the person is a refugee that has received a residence permit in accordance with the provisions in the Danish Aliens Act.*

Besides that, the requirement of Danish citizenship is exempted for persons that have had residence in the Kingdom of Denmark for at least 10 years between the age of 15 and the age granting old age pension.

The EU Regulation no. 1231/10 extending EU Regulation no. 883/04 to also applying to third country nationals does not apply to Denmark. This is due to the fact that Denmark has laid down legal reservation in relation to the statutory basis of the Treaty. The only way to broaden the scope for an easier access in relation to nationals of States not covered by EU regulations in relation to this issue is to enter into bilateral agreements with individual countries.

Denmark has entered into such agreements with a number of Council of Europe Member States.

However, the conclusions of such agreements will often have many implications – both financial and administrative. It is also the general rule that new bilateral agreements need to be justified by a certain number of persons being covered by a new agreement. Lastly, a lot of ministerial resources are these years dedicated to the on-going revision of EU rules on the coordination of social security.

Nor have Danish citizens the right to export Danish social benefits during residence in other states outside the EU or in a state without bilateral agreement. This residence requirement does not represent an expression of discrimination.

The Danish rules of eligibility for old age and early retirement pension do not have requirements regarding contribution or employment. The only requirement concerns residence. The residence requirement must be seen in that light. We see a ten year residence requirement in fully conformity with the principle of Art. 12§4.

112. In reply to the question asked by the Chair, the representative of Denmark confirmed that to benefit from ordinary or early retirement pension a foreigner only

needs to have resided in Denmark for 10 years and this entitlement does not depend on the number of years the person concerned has contributed to the social security system.

113. In response to the questions asked by the representative of the Netherlands, it was clarified that the entitlement for full pension is conditioned on 40 years of residence, whiles the entitlement for minimum pension on 10 years of residence.

114. The representative of the ETUC noted that there were no changes since the previous examination of the situation as regards new bilateral agreements concluded. With Andorra, Armenia, Georgia and Turkey no bilateral agreements existed.

115. The representative of Denmark also underlined in this respect that the conclusion of such agreements also needs to be justified by demand – i.e. the number of people who would potentially be concerned.

116. The representative of the ETUC also noted that in the past this issue was referred to the joint bureau meeting but no discussion has taken place. It is a long-standing case of non-conformity and no developments have been announced by Denmark.

117. The Chair proposed that since this ground of non-conformity also concerns many other States and no progress has been made for a long time, it should be discussed at the joint bureau meeting.

118. The GC decided to refer this issue to the joint bureau meeting.

ESC 12§4 GREECE

The Committee concludes that the situation in Greece is not in conformity with Article 12§4 of the 1961 Charter on the ground that the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

119. The representative of Greece provided the following information:

"According to art.12 para4 ESC each member state is free to choose the means of compliance with this provision of the Charter - compliance which can be effected either by the conclusion of multilateral – bilateral agreements or by other means. Community legislation provides a wide coverage as to the issue of accumulation of insurance periods for the majority of the member states of the Council of Europe. For the rest of the states which are members of the Council of Europe but not of the European Union or the European Economic Area, compliance is sought through the conclusion of bilateral agreements.

As far as the conclusion of bilateral agreements with third countries – non-EU member states of the Council of Europe – is concerned, let me provide you with up-dated information on the issue:

As regards Serbia, we are pleased to inform you that a bilateral agreement on social security has been concluded between the two countries. As of July 2018 the said agreement has been deposited to the Greek Parliament so that the ratification process could be followed.

Furthermore, our Ministry is currently considering the possibility of concluding an agreement with the Republic of Moldova.

And allow me to make a comment regarding the conclusion of such agreements: in any case, when considering the conclusion of an Agreement on social security, many factors are being taken into account, such as the general situation of the country in terms of social security, the overall fiscal situation which has an important impact also on Social Security Funds, mutual understanding of the parties involved and, of course, common will, not to mention the administrative burden of the whole procedure."

120. The representative of Greece further noted that many factors are taken into account when concluding bilateral agreements, such as the overall fiscal situation, common will, the burden of administrative procedure.

121. The representative of the ETUC asked what the current situation was with regard to the negotiations of bilateral agreements with the Russian Federation and Turkey. The representative of Greece replied that there was no real progress in this regard at the moment.

122. The GC noted that new bilateral agreements were underway, asked the Government to provide updated information in the next report and decided to await the next assessment by the ECSR.

ESC 12§4 ICELAND

The Committee concludes that the situation in Iceland is not in conformity with Article 12§4 of the 1961 Charter on the ground that equal treatment with regard to family allowances is not guaranteed to nationals of all other States Parties.

123. The representative of Iceland provided the following information:

Child benefits are paid for children under the age of 18 who are resident in Iceland and dependent upon an individual who is taxable under the Income Tax Act, No. 90/2003, with subsequent amendments. No application is necessary for child benefits.

The child benefits are paid to the child´s supporter, i.e. the person that the child lives with and is dependent upon at the end of the previous income year. A person who pays child support is not considered to be the supporter of a child in this context.

Married couples that file joint tax returns are both regarded as providers and the child benefits are split equally between them. The same applies to persons in cohabitation that meet the conditions of joint taxation at the end of the income year, irrespective of whether they have asked to be taxed separately. Moreover, persons that maintain a household with their child are both considered to be the child´s providers even if they have not registered their cohabitation.

Child benefits are income related and calculations are based on the total income of both parents in the previous year. In the case of a single parent, only the income of that parent is used in the calculations. The amounts of the child benefits are higher for single parents than for married and cohabiting couples.

Full benefits are paid for the child´s year of birth, but none for the year in which the child reaches the age of 18.

A special supplement, which is also income related, is paid for children under 7 years of age.

The amount of child benefits is calculated in the tax assessment at the end of June each year and the calculated amount is split into two payments, the first paid on 1 June and the second on 1 October. Advance payments are available for those who apply for them, and are paid on 1 February and 1 May each year.

Child benefits can be paid for children that are not resident in Iceland if they are dependent on a citizen of the European Economic Area (EEA), a member state of the European Free Trade Association (EFTA) or the Faroe Islands, provided that the child´s supporter is taxable in Iceland under the Income Tax Act, or insured on the basis of Articles 12, 13 or 14 of the Social Security Act, No 100/2007, with subsequent amendments.

For child benefits to be paid in the aforementioned cases, in which children are not resident in Iceland, the child must be resident in a member state of the European Economic Area, the European Free Trade Association or in the Faroe Islands and sufficient documentation must be submitted from a competent administrative authority in the state where the child is resident regarding the income of the child´s supporter and child benefits or similar benefits that have been paid for the child abroad. Such benefits are deducted from the calculated child benefit in Iceland and the difference is paid to the supporter of the child who is resident in Iceland.

Child benefits paid in the aforesaid cases for children living abroad are subject to the same conditions as child benefits paid to children resident in Iceland, as well as to the same income limits, reduction rates and benefit amounts, etc.

According to information provided by the Ministry of Finance and Economic Affairs, none of the States Parties referred to by the Committee, which apply a different principle than the "child residence requirement", have informed the Icelandic Government of an interest to enter into negotiations on a bi- or multilateral agreement regarding family benefits. The Icelandic Government is, however, prepared to negotiate with any of these states should they express such an interest.

124. The GC takes note of the information provided and decided to await the next assessment of the ECSR.

ESC 12§4 LUXEMBOURG

The Committee concludes that the situation in Luxembourg is not in conformity with Article 12§4 of the 1961 Charter on the ground that equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.

125. The representative of Luxembourg provided the following information:

1. Condition de résidence pour le versement des prestations familiales :

Dans ses conclusions XXI-2 (2017), dans la partie relative aux motifs de non-conformité relatifs à l'article 12§4 - Durée excessive de la résidence requise pour avoir droit à certains avantages sociaux, « le Comité conclut que la situation du Luxembourg n'est pas conforme à l'article 12§4 de la Charte de 1961 au motif que l'égalité de traitement en matière d'accès aux prestations familiales n'est pas garantie aux ressortissants de tous les autres Etats membres ».

Pour rappel, en vertu de la législation luxembourgeoise, tout enfant qui réside légalement au Luxembourg ouvre le droit aux prestations familiales. Ce droit n'est soumis à aucune

condition de nationalité. Par conséquent, tout enfant, quelle que soit sa nationalité, ouvre le droit aux prestations familiales s'il réside légalement au Luxembourg. Dans la conception luxembourgeoise, le droit aux prestations familiales est un droit personnel de l'enfant, les prestations étant payées à la personne qui s'occupe des intérêts de l'enfant. Les prestations familiales sont financées par le budget de l'Etat dans l'idée de solidarité de la communauté dans son ensemble.
Il est important de souligner également que ce droit n'est pas lié à une durée déterminée de la résidence. Dès lors que l'enfant a sa résidence légale au Luxembourg, il ouvre le droit aux prestations familiales.
Le Comité reconnaît qu'imposer une condition de résidence de l'enfant sur le territoire de l'Etat débiteur est conforme à l'article 12§4. Il estime cependant que « comme tous les pays n'appliquent pas un tel système, les États qui imposent une condition de résidence de l'enfant sont dans l'obligation, pour garantir l'égalité de traitement au sens de l'article 12§4, de conclure dans un délai raisonnable des accords bilatéraux ou multilatéraux avec les États qui appliquent un principe d'admissibilité différent ».

La législation luxembourgeoise respecte le principe de l'égalité de traitement prévu à l'article 12§4 puisque les enfants ressortissants de tout Etat partie à la Charte bénéficient du droit aux prestations familiales au Luxembourg dans les mêmes conditions que tout enfant luxembourgeois, sans que ce principe soit conditionné par la conclusion d'accords bilatéraux. La conclusion d'accords bilatéraux n'est pas de nature à renforcer cette égalité de traitement puisque la législation luxembourgeoise accorde déjà par elle-même une égalité de traitement totale de tous les enfants résidant légalement sur son territoire, quelle que soit leur nationalité.
Le Luxembourg réaffirme cependant sa disponibilité et son ouverture pour engager des négociations avec tout pays du Conseil de l'Europe qui manifesterait un tel intérêt.

2. Egalité de traitement en matière de droits à la sécurité sociale

Le Comité rappelle qu'en vertu de la Charte, les États Membres de l'UE et de l'EEE sont tenus de garantir aux ressortissants des autres États parties à la Charte de 1961 et à la Charte qui ne sont pas membres de l'UE ou de l'EEE, l'égalité de traitement en matière de droits à la sécurité sociale quand ils résident légalement sur leur territoire. Pour ce faire, ils doivent, soit conclure avec eux des accords bilatéraux, soit prendre des mesures unilatérales.
Pour ce qui concerne les accords bilatéraux, le Luxembourg fait remarquer que la convention de sécurité sociale avec l'Albanie est entrée en vigueur le 01/07/2016.
Pour ce qui concerne les mesures unilatérales, le Comité demande des précisions dans le prochain rapport sur l'affirmation selon laquelle la législation nationale en matière de sécurité sociale garantit l'ouverture du droit aux prestations de sécurité sociale sans discrimination et demande à recevoir les dispositions législatives ou administratives en la matière.
La législation concernée sera fournie lors du prochain rapport. Le Luxembourg précise dès à présent que la législation luxembourgeoise de sécurité sociale ne contient aucune distinction selon la nationalité. Toute personne, quelle que soit sa nationalité, ouvre le droit aux prestations de sécurité sociale dans les mêmes conditions qu'un ressortissant luxembourgeois (articles 1er, 85 et 170 du Code de la sécurité sociale).

3. Condition de résidence pour bénéficier du revenu minimum garanti

Le Comité rappelle que, s'agissant de prestations non contributives, l'annexe à l'article 12§4 admet que l'on impose aux étrangers une condition de durée de résidence, à condition que la

durée de résidence requise soit proportionnée à l'objectif poursuivi. Il considère une condition de résidence de cinq ans comme étant excessivement longue et donc contraire à la Charte de 1961. Il demande que le prochain rapport indique si cette durée de cinq années exigée pour les ressortissants d'un État partie non membre de l'UE ou de l'EEE doit être ininterrompue.
Le Luxembourg tient à informer que la législation en la matière a été réformée et que le revenu minimum garanti sera remplacé à partir du 1er janvier 2019 par le revenu d'inclusion sociale Des informations plus détaillées sur la nouvelle législation seront fournies lors du prochain rapport.
Le Luxembourg précise cependant dès à présent que pour bénéficier du revenu d'inclusion sociale ou du revenu minimum garanti, les demandeurs en provenance d'un pays qui ne fait pas partie de l'Union européenne doivent faire preuve d'une résidence effective pendant cinq ans au cours des 20 dernières années. La durée de résidence de 5 ans ne doit pas être interrompue et sont additionnées toutes les périodes de résidence au Luxembourg au cours des 20 dernières années.

126. The representative of Luxembourg noted that under the law any child legally resident in Luxembourg is entitled to family allowances. There is no restriction on the basis of nationality. The entitlement is a personal right of the child and it is paid to the legal guardian. These allowances are financed by the State budget and are not bound up with the length of residence. The condition of residence in itself is not contrary to Article 12§4 but since not all countries apply such a system, those states where there is a residence requirement have to conclude bilateral agreement with those countries who have different requirements.

127. Children from any State Party are entitled to the allowance on an equal footing with nationals. A bilateral agreement is not necessary to guarantee this right. The representative stated that Luxembourg is ready to conclude any agreement with any countries with such a request.

128. The representative of the ETUC asked whether negotiations with Ukraine and Armenia which were announced last time had started. The representative of Luxembourg said that this was an issue of a critical mass – the number of beneficiaries that would be concerned. If countries (such as Georgia, Andorra) approach Luxembourg, there will be no problem with concluding such an agreement.

129. In this connection the representative of Georgia informed the Committee about the launch of circular migration agreements (with Poland, as a pilot project, which will be completed at the end of 2018). As regards social security agreements, as Georgia is reforming its pension system, bilateral agreements in this area will become possible with the EU States, also as part of the reform process. The Representative of Greece encouraged Georgia to conclude social security agreements with the EU countries to facilitate and simplify labour migration.

130. The representative of the ETUC requested that the developments in Georgia be noted as a positive example and a positive message to anticipate future bilateral agreements in the area of social security in the light of the current reforms that Georgia is implementing.

131. The Committee took note of the information provided by the representative of Luxembourg and decided to await the next assessment of the ECSR.

ESC 12§4 SPAIN

The Committee concludes that the situation in Spain is not in conformity with Article 12§4 of the 1961 Charter on the ground that equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties

132. The representative of Spain provided the following information:

"Equal treatment with regard to access to family allowances

Regarding Spain's different alleged non-conformities with the provisions of Article 12 (on social security) of the Council of Europe's European Social Charter (ESC), in particular the Committee that oversees the Charter considers that there is non-conformity relating to equal treatment with regard to access to family allowances for nationals of other States Parties to the European Social Charter.

On this point, the Committee of Social Rights considers that Spain does not comply with the provisions of the Charter, as the Charter stipulates that equal treatment between nationals of one State Party and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

Spain does comply with these provisions, as has been repeatedly stated in prior reports.

For instance, Article 14 of Organic Law 4/2000 of 11 January, on the rights and freedoms of foreign nationals in Spain and their social integration, stipulates that foreign nationals residing in Spain are entitled to Spanish Social Security benefits and services under the same conditions as Spanish nationals. This article contains a general principle of equal treatment of Spanish and foreign nationals as regards Social Security, provided that said nationals are residing legally in Spain. In addition, the general wording enables its provisions to be extended to non-contributory benefits, since the expression "prestaciones de la Seguridad Social" (Spanish Social Security benefits) is used, without differentiating between different levels.

Furthermore, Article 7.2 of the General Social Security Act (known as LGSS in Spanish), approved by Royal Legislative Decree 8/2015 of 30 October, stipulates that for the purpose of non-contributory benefits, foreigners who are legally residing in Spanish territory shall be included in the scope of application of Social Security, pursuant to Organic Law 4/2000 of 11 January, on rights and freedoms of foreign nationals in Spain and their social integration, and, where applicable, in the treaties, conventions, agreements or other instruments approved, signed or ratified by Spain for this purpose.

Therefore, Spanish legislation does not differentiate between Spanish nationals and foreign nationals when recognizing entitlement to family allowances and issuing such benefits, irrespective of the measures adopted unilaterally to amend domestic legislation (e.g. amending Article 7 of the LGSS to include within the scope of application of Social Security, on equal terms with Spanish nationals, "foreign nationals who are legally resident or present in Spain" ["los extranjeros que residan o se encuentren legalmente en España"]).

Spain has ratified the Council of Europe's European Convention on Social Security and Interim Agreements on Social Security, and enters into Conventions with any States that wish to do so and for which it is appropriate, based on the number of nationals from the State

working in Spain. Spain offers to enter into bilateral agreements with all States that have ratified the ESC, and with which there are no agreements, in order to comply with the Charter.

The Committee bases its analysis on the recognition that the EU coordination rules on social security provide for equality of treatment of nationals of other Member States; nationals of the States that form part of the European Economic Area (EEA); stateless persons and refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, as well as to the members of their families and to their survivors; and nationals of third countries, members of their families and their survivors, provided that they are legally resident in the territory of an EU Member State and are in a situation which is not confined in all respects within a single Member State.

The Committee of Social Rights also acknowledges the existence of bilateral agreements on this obligation with Andorra, the Russian Federation, and Ukraine, as well as on-going negotiations on bilateral agreements with the Republic of Moldova and Turkey.

Therefore, the situations in which the Committee considers that there is non-conformity are limited solely to nationals of four countries: Azerbaijan, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, and Georgia, as the Committee does not have any evidence that bilateral agreements have been concluded or are under negotiation.

Notwithstanding this, in view of another possible means of resolving this issue—namely, unilateral measures adopted by Spain—the Committee acknowledges in its Conclusions XXI-2 (2017) that Articles 10 (1) and 14 of Organic Law 4/2000 on rights and freedoms of foreign nationals in Spain, guarantee the principle of equal treatment between nationals and nationals of other countries who are affiliated to the Spanish Social Security scheme with respect to social security. Therefore, up to this point, the Committee agrees with Spain, and considers that our country complies with the provisions of this Article of the Social Charter.

the length of residence requirement (ten years) for entitlement to non-contributory old-age pension is excessive.

From this point on, the Committee considers a further two points relating to Article 12.4, on which it does not reach favourable conclusions. The first is the ***length*** *of the period of residence required to be entitled to non-contributory retirement benefits (10 years), which the Committee considers excessive. The second point is the requirement for* ***children to reside*** *in the territory of Spain for the payment of family benefits.*

As regards the first point, ***the allegedly excessive length of the period of residence required to be entitled to non-contributory retirement benefits*** *is not a new issue, as it was covered in the Committee's Conclusions from 2009 and 2013, in which it stated that although the Social Charter provides for the possibility of establishing a specific required period of residence, this is only possible when it maintains a relation with the objective pursued.*

In this respect, the Committee analysed the contributory retirement benefit and found it to be, by nature, a basic benefit, and thus considered the residence period required by Spain to be excessive. Once again, in this regard, the problem does not relate to EU or EEA countries, where this issue is covered, but rather to the other States Parties to the European Social Charter, which is where the Committee considers that Spain is in non-conformity. Spain has put forth the argument that it has many bilateral agreements in force, and has recalled that the negotiation of such agreements is bilateral and open to future negotiations with the aim of reaching agreements that benefit Spanish nationals and nationals of other countries. This argument did not satisfy the Committee, which probably has the same question regarding

other States Parties. Nevertheless, whether the required period is proportional is a debatable matter, if we take into account that there are minimum incomes benefits, which are managed by Spain's Autonomous Communities, which would indeed be a benefit of last resort (the basic benefit to which the Committee refers).

Moreover, it should be recalled that under Spain's current Social Security legislation, to be entitled to non-contributory pensions, irrespective of the nationality of the beneficiary—Spanish or foreign—evidence must be provided of a specific period of legal residence in Spanish territory, namely ten years between the age of sixteen and the pensionable age, of which two years must be consecutive and immediately prior to the application for the benefit.

These requirements were established at the same time that Act 26/1990 of 20 December established a system of non-contributory Social Security benefits. In drafting said Act, Spanish lawmakers took into account the criteria regarding this matter in the European Convention on Social Security of 14 December 1972, which was ratified by Spain in the Instrument of 10 January 1986. Article 8.2 of the Convention is worded as follows:

"…entitlement to non-contributory benefits, the amount of which does not depend on the length of the periods of residence completed, may be made conditional on the beneficiary having resided in the territory of the Contracting Party concerned […] for a period which may not be set:

[…]
c) at more than ten years between the age of sixteen and the pensionable age, of which it may be required that five years shall immediately precede the lodging of the claim, for old-age benefits."
Therefore, Spanish Social Security legislation on this specific matter, has strictly followed, perhaps even with less rigid provisions, the terms of another Social Security coordination instrument of the Council of Europe itself.

Furthermore, it should be noted that the measures for the protection of the elderly, within the Spanish Social Security system, are not limited to financial income/benefits and also include medical and pharmaceutical services and social services, forming a comprehensive package of protective measures; it can thus be said that this benefit can in fact be considered to have the nature of the basic benefit to which the Committee refers.

As regards the ***residence requirement for payment of family benefits****, the Committee considers that a requirement of this kind is, in principle, in conformity with the Social Charter; however, citing a Statement of Interpretation from 2006, the Committee indicates that since not all countries apply such a system, States Parties that do—in this case Spain—are under the obligation, in order to secure equal treatment, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States Parties that do not apply this system. This currently affects Albania, Andorra, Armenia, and Georgia—countries for which there is no evidence of on-going negotiations in this regard (nonetheless, the list does include countries with which there are bilateral agreements in force, for example Andorra, although the material scope may not cover this matter by agreement of the two States).*

In this regard, it should be noted that Spain has relations with most of the States that have signed and ratified the ESC. In terms of the aforementioned countries with which there are no accords formalised in agreements, it can be concluded that the number of children resident in one of these States cannot be very high; furthermore, there is no record at this Management Body of conflicts in this area and the Committee has not referred to specific

cases. Nevertheless, it would be the entities responsible for managing the benefits that would ultimately have to be consulted to obtain more detailed information on this point.

Should there be specific cases that affect residents of these States, it must be stressed that it is only possible to guarantee recognition of entitlement and payment of family benefits for dependent children who do not reside in Spain through international instruments, since the rules for family benefits in Spain demand that a number of requirements be met, such as maximum income, age of offspring, offspring's' income, not to mention certain incompatibilities for which evidence must be provided by the competent institution from the State in which the children reside.

In addition to the need for family benefits to be included within the material scope of the international instrument, there is also a need for the State in which the dependent offspring reside to collaborate and cooperate closely; this can only be achieved through a bilateral or multilateral instrument, as any other means could give rise to different—and probably more favourable—entitlements for nationals of countries without agreements than those enjoyed by nationals of countries with agreements, due to the difficulties with controls.

As previously stated, Spain has indicated its willingness to begin negotiations on this matter with countries that wish to do so. The Committee has been informed of this, but without any positive outcome, since it has reiterated its observations. As a result, if no solution is reached by the aforementioned means, the only information that can be added to that reported to date is the possibility of reviewing whether other States Parties are in a similar situation, and therefore whether this issue could be addressed collectively, since this is an interpretive criterion that could change in the future.

133. The representative of the ETUC noted that the only positive change was the agreement with Moldova.

134. The representative of Spain stated that the European Convention of Social Security had inspired social security reforms in Spain but it seemed that it imposed obligations which are contradictory with the requirements with the Charter. The GC decided to discuss this issue at the joint bureau meeting with the ECSR.

135. The GC took noted of the information provided by Spain 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

136. 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".

137. 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.

138. 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.

ESC 13§1 DENMARK

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

- ***the levels of social assistance (kontanthjælp) paid to persons under 30 years of age and of integration allowance (uddannelseshjælp) paid to single persons are not adequate;***
- ***nationals of States Parties can have their residence permit withdrawn on the sole ground of being in receipt of social assistance for more than six months, unless they had resided in Denmark for more than seven years***

139. The representative of Denmark provided the following information on the first ground:

In general, Denmark is considered as providing a high level of assistance allowance compared to European standards, also taking into account the costs of living in Denmark. Education aid and the integration allowance are public benefits and part of this social allowances scheme paid to persons not yet capable of providing for themselves or their family. Education aid is paid out to persons under the age of 30 years without an education. The integration allowance is paid out to persons who have not lived in Denmark for at least seven of the past eight years - that be: newly arrived foreigners, as well as newly arrived Danish citizens.

The level of both benefits equals the level of the Danish students' Grants Scheme. Also the Danish public students' support scheme is in general considered as being generous in its level of subsidies, compared to European standards. Every day, it helps students in Denmark paying their living costs.

At the same time, the intention is to motivate the person concerned to become economic independent and self-sufficient - either by starting an education scheme or entering the labour market. As for the integration allowance it is the intension to motivate persons concerned to take part in society by giving an economic incentive to entering the labour market and to learn Danish.

If the young persons on education aid are not yet ready to start an education because they struggle with problems concerning health or other social barriers, they will be able to qualify for an activity-based extra allowance ('aktivitetstillæg'), since they are not able to act on an economic incentive.

As for the persons on integration allowance, they are granted a supplement for learning Danish at a certain level.

Besides, it is still possible to receive a number of other social benefits – such as housing assistance (boligstøtte), subsidies regarding payment for day care and child allowance (børnetilskud). In addition, a single parent or a young mother can receive extra support and financial help to begin an education.

Besides these additional benefits, it is also possible to receive subsidies for medicine, dental care and other expenses, such as housing supplies when the person has no means to cover the expenses themselves.

These supplementary benefits were important, when the Danish High Court decided that the integration allowance in consideration with the supplementary benefits were sufficient for persons to cover living costs in Denmark.

When assessing the appropriate level, it is therefore not enough to solely focus on the single benefit. It is important to take well note of the fact that the person might have the right to a number of other supplementary benefits.

I recall that Denmark at previous occasions has expressed concerns about the definition of the poverty threshold used by the Committee of Experts. The 50 per cent median equalized income threshold is not commonly recognized as a poverty threshold. In Denmark, poverty is regarded as a broader phenomenon than the lack of financial resources. Focusing on only one indicator is misleading, and it will distract attention from the causes of social exclusion. Still, Denmark is committed to work with poverty indicators as part of our UN Development Goal Strategy. It is our firm belief that no one is left behind in the Danish social allowances' scheme.

140. The representative of Denmark provided the following information on the second ground:

Denmark does not agree with the findings of the Committee of Experts. The decision as to whether a person in need of permanent assistance should be returned to his or her home country will always be based on an individual assessment. This assessment includes personal circumstances of the person concerned, including the consequences for the person of the repatriation. It takes into account a number of criteria, which are set out by law in a non-exhaustive manner.
Those criteria include notably the following:

- *Whether the person is married to and is cohabiting with a Danish citizen, a refugee or a non-citizen lawfully living in Denmark for more than three years with a view to obtaining permanent residence*
- *The duration of his/her stay in Denmark*
- *His/her medical condition*
- *Any family connection or other ties to Denmark as compared to the country of origin*
- *And whether any person having undertaken to support the non-citizen is or should be observing that duty.*

It is therefore not correct that residence permits are withdrawn on the sole ground that the persons concerned have received social assistance for more than six months.

141. The representative of the Netherlands considered that 50% of the median income, which the ECSR relies on, should not be a single indicator to establish poverty. The Member States have a broader definition of what they consider poverty and the ECSR should be encouraged to take it into consideration. The representative of Portugal also noted that in the EU the indicator to measure poverty is a multidimensional indicator, including deprivation, and labour intensity.

142. The Chair proposed that the ECSR poverty indicator should also be discussed at the joint bureau meeting.

143. As regards the first ground of non-conformity, the GC asked Denmark to provide all the necessary information in the next report, including the information on the monetary value of other benefits. As regards the second ground of non-conformity, the GC asked Denmark to provide information concerning the cases of repatriation of persons whose residence permits are still valid.

ESC 13§1 SPAIN

The Committee concludes that the situation in Spain is not in conformity with Article 13§1 of the 1961 Charter on the ground that the level of social assistance paid to a single person is not adequate.

144. The representative of Spain provided the following information:

Le montant moyen de l'allocation minimum de revenu d'insertion en 2016 était de 434,05 € / mois par titulaire de l'allocation. D'autre part, selon l'enquête sur les conditions de vie (ECV). Année 2017, de l'Institut national de la statistique (INE), le seuil de risque de pauvreté, suivant les critères Eurostat, est fixé à 60% du revenu médian par unité de consommation des personnes. En 2017, le seuil de risque de pauvreté pour les ménages d'une personne (calculé avec les données sur les revenus de 2016) était de 8 522 € (710,2 € / mois) et le seuil de pauvreté sévère (30% médian). Pour les ménages unipersonnels, il s'élevait à 4 261 euros (355,1 euros / mois).

Compte tenu du montant moyen du revenu minimum d'insertion pour 2016 et le montant du seuil de risque de pauvreté et le montant du seuil de risque de pauvreté sévère pour les ménages unipersonnels, le montant moyen des revenus minimum d'insertion représente le 61,1% du seuil de pauvreté, qui est un 22,2% au-dessus du seuil de pauvreté sévère.

Enfin, pour conclure, mentionner que le Gouvernement vient d'approuver le Décret-loi 7/2018 de 27 juillet qui prévoit l'accès universel au système national de santé. Cela, ajouté au projet du Congrès des Députés concernant le groupe de travail chargé d'analyser, d'évaluer et de coordonner les critères du revenu minimum pour l'insertion des différentes communautés autonomes afin de promouvoir l'égalité des chances, démontre l'engagement du Gouvernement pour accomplir les dispositions de l'article 13 de la CSE.

145. The GC took note of the draft bill proposed by the Congress of Deputies concerning the setting up of a working party responsible for healthcare and social assistance, with a view to identifying the measures necessary to harmonise and promote social integration, including the current level of integration allowance and to coordinate across autonomous communities.

146. The GC encouraged Spain to pursue the work of the parliamentary committee which is in the process of analyzing the thresholds and to provide information regarding autonomous communities. It 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

147. 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.[14]

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.[15]

Persons concerned[16]
"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 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[17]

Social services include in particular counselling, advice, rehabilitation and other forms of support from social workers, home help services (assistance in the running

[14] Conclusions 2005, Bulgaria
[15] International Federation for Human Rights (FIDH) v. Belgium, complaint No. 75/2011, decision on the merits of 18 March 2013
[16] Conclusions 2009, Statement of Interpretation on Article 14§1
[17] Conclusions 2005, Bulgaria

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[18]

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.[19]

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;

[18] Conclusions 2005, Bulgaria
[19] Conclusions 2009, Statement of Interpretation on Article 14§1

- there must be mechanisms for supervising the adequacy of services, public as well as private.

148. 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).*

149. 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).

150. 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)20. 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§121.

151. 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.

[20] "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"

[21] 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."

152. 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

ESC 14§1 POLAND

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

153. The Secretariat recalled that the situation was not in conformity since 2005.

154. The representative of Poland provided to the GC the following information:

L'allégation du Comité d'experts indépendants est la durée excessive (5 ans) de la résidence d'un étranger en Pologne pour qu'il puisse avoir droit aux prestations d'assistance sociale.

Les étrangers ont droit à certaines prestations sous condition qu'ils sont résidents permanents en Pologne.

Cette exigence ne concerne que les prestations non contributives. Ce sont les prestations suivantes:

- *allocation familiale,*
- *allocation pour l'éducation de l'enfant,*
- *pension sociale,*
- *allocations d'assistance sociale,*
- *allocation du fonds alimentaire,*
- *allocation „bon départ scolaire".*

La résidence permanente comme condition d'accès à ces prestations s'inscrit dans le cadre général de la politique relative à la migration. Les conditions d'accès de différents groupes d'étrangers aux prestations non contributives ont été décidées par le législateur, en prenant compte des facteurs sociaux, économiques, légaux et politiques.

Une modification de ces règles – une modification fondamentale vu ses consèquences – pourrait être prise en considération au moment de changer la politique de migration.

Vu qu'il n'y a pas d'intention d'introduire des changements dans ce domaine, l'introduction des modifications ponctuelles - en l'occurrence dans le domaine de l'assistance sociale – n'est ni faisable ni raisonnable.

En plus, le Ministère de la famille, du travail et de la politique sociale n'a jusqu'à présent reçu aucun signal de la part de l'administration locale ou régionale indiquant la nécessité de modifier le champ d'application personnel de la loi sur l'assistance sociale. De tels besoins n'ont pas non plus été signalés par d'autres institutions, y compris celles responsables du statut des étrangers en Pologne.

Observations plus générales, relatives à l'interprétation de l'article 14 sont l'essentiel de la position de la Pologne concernant cette conclusion négative:

La Pologne considère que les conditions d'accès des étrangers à l'assistance sociale sont énoncées à l'article 13 alinéa 1 de la Charte, ainsi qu'à son alinéa 4, de façon claire et exhaustive.

Selon le Comité d'experts indépendants lui-même (citation) „au regard de l'article 13§1, les États doivent fournir une assistance sociale et médicale suffisante à toutes les personnes en situation de besoin sur un pied d'égalité, qu'il s'agisse de leurs propres citoyens ou de ressortissants d'États parties qui résident légalement sur leur territoire."

Ces constats suivent exactement le texte de l'article 13 alinéa 1 - l'Etat doit veiller à ce que toute personne qui ne dispose pas de ressources suffisantes et qui n'est pas en mesure de se procurer celles-ci par ses propres moyens ou de les recevoir d'une autre source, notamment par des prestations résultant d'un régime de sécurité sociale, puisse obtenir une assistance appropriée et, en cas de maladie, les soins nécessités par son état. L'alinéa 4, selon l'interprétation adoptée par des experts indépendants concerne les situations plus particulières.

L'article 14 alinéa 1 prévoit que l'Etat le ratifiant s'engage à encourager ou organiser les services utilisant les méthodes propres au service social et qui contribuent au bien-être et au développement des individus et des groupes dans la communauté ainsi qu'à leur adaptation au milieu social dans le but d'assurer l'exercice effectif du droit à bénéficier des services sociaux. Cette disposition tend à assurer un fonctionnement efficace du système d'assistance sociale assurant la mise en œuvre des droits découlant de l'article 13.

L'article 14 alinéa 1 ne contient pas un seul mot sur les conditions d'accès des individus à l'assistance sociale ou à des services sociaux. Ce qui est logique car les conditions d'accès sont énoncées de façon suffisamment claire et exhaustive à l'article 13 alinéas 1 et 4.

Il en résulte que l'interprétation de l'article 14 alinéa 1 par le Comité d'experts indépendants comme comprenant l'obligation des États de garantir l'égalité d'accès aux services sociaux dépasse le champ d'application de cette disposition tel que prévu par la Charte.

La Pologne estime que le Comité, en examinant le champ d'application personnel de l'assistance sociale sous l'article 14 alinéa 1 tente de dépasser l'impossibilité de le faire dans le cadre de l'article 13 alinéa 1 - pour des Etats qui n'ont pas ratifié cette disposition.

La Pologne considère qu'elle prend toutes les mesures nécessaires pour assurer la mise en œuvre de l'article 14 alinéa 1 en ce qui concerne son champ d'application original, c'est à dire l'organisation et le fonctionnement des services sociaux, leur répartition géographique des services, les qualifications des travailleurs sociaux. Le Comité d'experts indépendants confirme cette position dans son rapport.

155. The Chair said that "the excessive length of residence requirement to be entitled to certain rights" is always been a sensitive issue also for other articles of the Charter. Therefore, he suggested that the question of the interpretation of Article 14§1 will be addressed by the GC Bureau to the ECSR joint Bureaus meeting in January 2019.

156. The GC took note of the information provided by the representative of Poland, and decided to await the next assessment of the ECSR.

APPENDIX I

List of participants

(1) 137th meeting, Strasbourg, 23-27 April 2018
(2) 138th meeting, Strasbourg, 24-28 September 2018

137th meeting of the Governmental Committee
23-27 April 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	**26/02/03**	26/02/03
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	**03/11/99**	04/04/12
Denmark *	03/05/96	**03/03/65**	
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	**27/01/65**	
Greece	03/05/96	18/03/16	18/06/98
Hungary	07/10/04	20/04/09	
Iceland	04/11/98	**15/01/76**	
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	**09/10/91**		
Lithuania	08/09/97	29/06/01	
Luxembourg *	11/02/98	**10/10/91**	
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	**25/06/97**	
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	**06/05/80**	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland	**06/05/76**		
«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	**11/07/62**	
Number of States 47	**2**+ 45 = 47	**9** + 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

Article 3 ESC – Right to safe and healthy working conditions

Article 3§1 ESC - To issue safety and health regulations

ESC 3§1 GERMANY
ESC 3§1 GREECE

Article 3§2 ESC – To provide for the enforcement of such regulations by measures of supervision

ESC 3§2 LUXEMBOURG

Article 12 ESC – The right to social security

Article 12§1 ESC – To establish or maintain a system of social security

ESC 12§1 GREECE

Article 12§4 ESC – 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:

a. Equal treatment with their own nationals of other Contracting 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 Contracting Parties;
b. 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 Contracting Parties.

ESC 12§4 DENMARK
ESC 12§4 GREECE
ESC 12§4 ICELAND
ESC 12§4 LUXEMBOURG
ESC 12§4 SPAIN

Article 13 ESC – The right to social and medical assistance

Article 13§1 ESC – 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;

ESC 13§1 DENMARK
ESC 13§1 SPAIN

Article 14 ESC – The right to benefit from social welfare services

Article 14§1 ESC - 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;

ESC 14§1 POLAND

APPENDIX IV

List of deferred Conclusions

Country	Articles
Czech Republic	ESC 7§5, ESC 8§2
Denmark	ESC Protocol Article 4
Germany	ESC 3§2, ESC11§1, ESC11§2, ESC11§3, ESC13§3, ESC14§1, ESC14§2, ESC19§4
Greece	ESC 3§1, ESC 3§2, ESC 3§3, ESC 11§1, ESC 11§3, ESC 12§2, ESC 13§1, ESC 13§4, ESC 14§2
Luxembourg	ESC 13§1, ESC 13§4, ESC 14§2
Poland	ESC 3§1, ESC 12§3, ESC 13§3
Spain	ESC 3§3, Protocol Article 4
United Kingdom	ESC 13§1

APPENDIX V

List of examples of positive developments in State Parties

Denmark:

Article 3§1

- Act No. 356 of 9 April 2013 amended the Working Environment Act. The amendment pinpoints that the Act also deals with the psychological working environment**.**

Article 3§2

- Since January 2012 inspections by the WEA are risk-based, and all enterprises with two or more full-time employees (FRE) will be inspected at least once before the end of 2019.

Article 12§3

- A number of measures were introduced in favour of persons who had exhausted their right to unemployment benefits, such as a special education allowance (Act No. 1374 of 23 December 2012, Act No. 790 of 28 June 2013) or temporary labour-market benefits (Act No. 1610 of 26 December 2013, Act No. 174 of 24 February 2015). Furthermore, measures were taken to maintain unemployment benefits during sickness, for the first 14 days (Act No. 720 of 25 June 2014). Additional measures in favour of unemployed people were taken in the framework of the Employment reform 2014 (Act No. 1486 of 23 December 2014).

Germany

Article 3§1

- Two clarifying provisions on psychological stress in the Safety and Health at Work Act (Arbeitsschutzgesetz) entered into force on 25 October 2013 (Article 8 (1) of the Act of 19 October 2013,). Section 4 (1) of the Safety and Health at Work Act stipulates that work shall be shaped so as to avoid, as far as possible, any risk to life and physical and mental health and to keep the remaining risk as low as possible. A new point 6 “psychological stress at work” was incorporated into Section 5(3) on Assessment of the condition of work of the Act.

Article 12§3

- As regards the Statutory occupational accident insurance scheme, the insurance coverage was extended, in 2012 and 2015, to new categories of persons and four additional occupational illnesses were recognised as such in 2015.

Poland

Article 3§1

- The Regulation of the Minister of Health of 21 December 2012 on granting authorisation for radiological protection inspectors in laboratories using X-ray equipment for medical purposes and the Regulation of the Council of Ministers of 10 August 2012 on posts which are critical for nuclear safety and radiation protection and radiation protection inspectors were adopted during the reference period.

Article 3§3

- The Council for Social Dialogue replaced the Tripartite Commission for Socio-Economic Affairs in accordance with the Law of 24 July 2015. The Council is made up of representatives of the government, workers represented by members of representative trade union organisations, and employers represented by members of representative employers’ organisations. It conducts dialogue in order to lay the foundations for socio-economic development and increase economic competitiveness and social cohesion in Poland.

Article 12§3

- The extension of certain health care benefits to refugees, their families, pregnant women and women who have just given birth and children under 18 years with refugee status or enjoying additional protection (law of 26 June 2014).

Spain

Article 3§1

- The National Strategy for Safety and Health at Work 2015-2020 was adopted by way of an agreement of the Council of Ministers of 24 April 2015. It is structured into three two-year action plans commencing in 2015 and is aimed in particular at significantly reducing accidents at work, occupational diseases and damage associated with work. This strategy is described as the tool that will serve as a reference framework for public policy on safety and health at work until 2020 and guide the actions of the competent institutions in this field;
- Law No. 3/2012 of 6 July 2012 on urgent measures for the reform of the labour market has been adapted. According to the report, Section 13 of the Law defines "teleworking" as work where the work activity is carried out primarily in the worker's home or in a place chosen freely by the worker, as an alternative to being physically present at the company's work centre. The Law recognises that teleworkers have the right to suitable protection in relation to safety and health

Article 3§2

- The new Law No. 23/2015 of 21 July 2015 on the regulation of the Labour and Social Security System Inspectorate (ITSS) which repeals and replaces Law No. 42/1997 of 14 November 1997. The new law features several innovations in that it assigns new powers to sub-inspectors in relation to the prevention of occupational risks and creates a labour and social security inspectorate as a body which is independent of the national administration of the state or the regulation of a national body to tackle undeclared work, illegal employment and social security fraud as a specialised department of the ITSS. The law also governs the functions and powers of the ITSS, the remit, its organisation and its co-operation with other institutions. It explicitly recognises protection for its staff, including against acts of violence, compulsion, threats or illegal influence aimed at its inspectors and sub-inspectors;
- The new Labour, Social Security and Occupational Health Sub-inspectors Service strengthens the functions of the ITSS in terms of overseeing and monitoring the application of regulations concerning the prevention of occupational risks. In particular, this Service is responsible for verifying or checking the application of regulations which directly involve physical working conditions (situations as regards safety, health and hygiene at work), preventative actions according to the analysis of the rate of accidents at work, and information and assistance for businesses and workers.

Article 12§3

- The integration into the general social security scheme of the special scheme for domestic staff and the special agricultural scheme (Act 27/2011 of 1 August 2011, Act 28/2011 of 22 September 2011, Royal Legislative Decree 29/2012 of 28 December 2012), and of clergy belonging to the Spanish federation of evangelical churches (Royal Decree 839/2015 of 21 September 2015, implementing the European Court of Human Rights judgment of 3 April 2012, final on 3 July 2012, in the case of Manzanas Martin, application No. 17966/10);
- Measures to authorise persons, under certain conditions, to combine receipt of a retirement pension with certain forms of employment (Royal Legislative Decree 5/2013 of 15 March 2013);
- Measures to assist the self-employed, including reductions in and rebates on their contributions (Royal Legislative Decree 4/2013 of 22 February 2013; Act 14/2013 of 27 September 2013; Act 25/2015 of 28 July 2015);
- Reduced employer contributions under measures to promote business creation and youth employment (Act 11/2013 of 26 July 2013), and the employability of workers in general (Royal Legislative Decree 16/2013 of 20 December 2013; Royal Decree 3/2014 of 28 February 2014; Royal Legislative Decree 8/2014 of 4 July 2014; Royal Decree 637/2014 of 25 July 2014);

- Measures to protect part-time workers (Royal Legislative Decree 11/2012 of 2 August 2012; Act 1/2014 of 28 February 2014);
- A special agreement to assist persons with disabilities (Royal Decree 1567/2013 of 1 March 2013).

United Kingdom

Article 3§1

The Control of Asbestos Regulations came into force on 6 April 2012, updating previous asbestos regulations to take into account of the European Commission's view that the UK had not fully implemented the EU Directive 2009/148/EC on exposure to asbestos. According to Article 2 of these Regulations, the control limit of the concentration of asbestos on the atmosphere is 0.1 f/cm3 of air averaged over a continuous period of 4 hours.

APPENDIX VI

Warning(s) and Recommendation(s)

Warning(s)[22]

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Recommendation(s)

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Renewed Recommendation(s)

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[22] 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.

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.