

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

19 March 2026

**SECOND REPORT
ON THE NON-ACCEPTED PROVISIONS
OF THE REVISED EUROPEAN SOCIAL CHARTER**

Montenegro

Table of Contents

I. OVERVIEW AND EXECUTIVE SUMMARY	3
II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER.....	6
APPENDIX I: Factsheet: the situation of Montenegro with respect to the European Social Charter	58
Appendix II: Vilnius Declaration.....	66
APPENDIX III: Digest of the case law of the ECSR.....	69

I. OVERVIEW AND EXECUTIVE SUMMARY

1. Overview of the adjusted procedure on the non-accepted provisions of the European Social Charter

The European Social Charter is based on a ratification system, which enables States Parties, subject to certain minimum requirements, to choose the provisions they are willing to accept as binding international legal obligations. This system is provided for by Article A of the revised European Social Charter (Article 20 of the 1961 Charter) and it allows States, at any time after their ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.

It is in the spirit of the Charter for States Parties to progressively increase their commitments, tending towards acceptance of additional and eventually all provisions of the Charter where possible, as opposed to an *à la carte* stagnancy. In that sense, the opening paragraph of Part I of the Charter reads “The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised”, followed by the heading of all rights contemplated by the European Social Charter. Part III, Article A, provides that “each of the Parties undertakes [...] to consider Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part”, followed by the rules on the choices available as regards provisions that Parties can declare to be bound by and which determine the modalities of monitoring under Part IV of the Charter (See CM(2022)196-final).

In addition to provisions in part II, which States parties can opt to accept or not, within certain limits, the Charter also defines a direction of progress, to which all States having ratified the Charter have agreed as a binding commitment. It follows, first, that any backward step that might result from the adoption of reforms that make it more difficult for a State to accept to be bound by certain provisions is presumptively a violation of the Charter, as it would amount to a defeat of the object and purpose of that State's accession to the Charter. It also follows that States Parties to the Charter have agreed to pursue efforts to take all necessary steps to align their national law, policies and practice with the Charter. This requires that States Parties take into account all the provisions of the Charter in law and policymaking, in order to facilitate future acceptance of the provisions of the Charter they have not yet accepted.

The procedure for examining reports on the non-accepted provisions is set out in Article 22 of the European Social Charter of 1961 (ETS No. 35). According to this provision, the States Parties must send to the Secretary General, at appropriate intervals set by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of ratification or by subsequent notification. The Committee of Ministers shall determine from time to time those provisions for which such reports will be requested and the form in which the reports should be provided.

In September 2022, the Committee adopted a decision to implement the procedure on non-accepted provisions in respect of all State Parties to either Charter, in a reinforced manner. The procedure now provides for the submission of written information by States Parties in accordance with a pre-established calendar, and additional bilateral meetings when it is deemed to represent an added value. The written information, submitted by the States Parties, shall be made public upon its receipt, and the national and international social partners, non-governmental organisations, national human rights institutions, equality bodies and other stakeholders are given the possibility to provide comments within three months of receiving the written information.

2. The situation of Montenegro in the context of the non-accepted provisions of the European Social Charter

Montenegro ratified the revised Charter on 3 March 2010 accepting 66 of its 89 paragraphs.

Montenegro has not so far accepted the following provisions of the revised Charter: Articles 2§§3, 4, 5, and 7, 4§§1 and 4, 7§10, 10§5, 18§§1-4, 19§§1-10, 21, 22, 25, 26§2, 27§1 (b) and (c), 30, 31§§1-3.

This is the second examination by the Committee of the provisions of the Charter not yet accepted by Montenegro. The first examination took place in [2015](#); the ECSR report is available on the [Council of Europe \(CoE\) website](#).

The previous (first) examination of non-accepted provisions (NAP) was carried out in 2015 based on the report submitted by the Montenegrin authorities. The Committee considered that there were no legal obstacles to the acceptance of Articles 2§§4, 5 and 7, Article 7§10, Article 10§5, Article 18§§1, 2, 3, and 4, Article 19§§1, 2, 3, 5, 7, 9, and 10, Article 21, Article 22, and Article 26§2 of the Charter. A possible problem regarding conformity with Article 2§3 and Article 4§§1 and 4 was identified. With respect to Article 19§§4, 6 and 8, and Articles 25, 30 and 31, further clarification of the situation in law and practice was required.

Based on the procedure on non-accepted provisions, Montenegro was invited to submit written information, which was registered in March 2025 and subsequently published on [the CoE website](#).

The present examination covers the following non-accepted provisions of the revised Charter:

- Article 2§§3, 4, 5 and 7 – The right to just conditions of work
- Article 4§§1 and 4 – The right to a fair remuneration
- Article 7§10 – The right of children and young persons to protection
- Article 10§5 – The right to vocational training
- Article 18§§1-4 – The right to engage in a gainful occupation in the territory of other Parties
- Article 19§§1-10 – The right of migrant workers and their families to protection and assistance
- Article 21 – The right to information and consultation
- Article 22 – The right to take part in the determination and improvement of the working conditions and working environment
- Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer
- Article 26§2 – The right to dignity at work
- Article 27§1 (b) and (c) - the right of workers with family responsibilities to equal opportunities and equal treatment
- Article 30 – The right to protection against poverty and social exclusion
- Article 31§§1-3 – The right to housing.

The Committee notes that the Government's report also covers Article 29 of the Charter. However, since Montenegro already accepted Article 29 when it ratified the revised Social Charter in 2010, the Committee's assessment does not include this provision.

As regards Articles 2§§3 and 4, 4§1, 18§2, 19§9, 21, 22, 26§2, and 27§1 (b) and (c), the Committee considers that the situation is compatible with the requirements of these provisions of the Charter, which could therefore be accepted immediately.

As regards Article 4§4, the Committee considers that the current legal framework is not yet fully compatible with the requirements of the Charter. The Committee therefore encourages the Government to take the necessary steps to enable acceptance of this provision as soon as possible.

As regards the remaining non-accepted provisions 2§§5 and 7, 7§10, 10§5, 18§§1, 3 and 4, 19§§1, 2, 3, 4, 5, 6, 7, 8 and 10, 25, 30, and 31§§1-3, the Committee considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In the meantime, the Committee encourages the Government to pursue its efforts and to consider accepting these provisions as soon as possible.

The Committee encourages Montenegro to consider accepting the collective complaints procedure.

The Committee remains at the disposal of the Government for enhanced dialogue on the Charter provisions and the relevant case law,¹ and invites Montenegro to undertake further commitments under the Charter as soon as possible so as to consolidate the paramount role of the Charter in achieving social and economic progress and ultimately a greater unity among the Council of Europe member States by guaranteeing and promoting common social human rights standards.

The next examination of the provisions not yet accepted by Montenegro is scheduled to take place in 2030.

¹ In the light of the 2022 Charter system reform, States Parties to the Charter can benefit from enhanced dialogue with the Charter's monitoring bodies – constructively and in a spirit of cooperation – as a tool to reach a common understanding of problematic issues that may permit to identify possible solutions to such issues which are suitable for and acceptable to the State Party concerned. Enhanced dialogue may also serve as a means of enabling technical assistance. See [CM\(2022\)114 final](#).

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER

Article 2§3 – The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to provide for a minimum of four weeks' annual holiday with pay.

Situation in Montenegro

The report states that, according to Article 81 of the Labour Law ("Official Gazette of Montenegro", nos. 74/2019, 8/2021, 59/2021, 68/2021, 145/2021, 77/2024, 84/2024 other law, and 86/2024), in each calendar year, the employee is entitled to annual leave determined by the collective agreement or employment contract of at least 20 working days.

An employee who works part-time (works in a workplace where, despite the application of occupational safety and health measures, it is not possible to protect the employee from harmful effects, which results in the working hours being proportionally reduced), is entitled to annual leave lasting at least 30 working days.

An employee who works six working days is entitled to annual leave of 24 working days.

The length of annual leave is determined by increasing the number of working days based on criteria set by the collective agreement and the employment contract. According to Article 5 of the General Collective Agreement, employees exercise the right to increased annual leave above the statutory minimum, depending on various criteria, such as length of service, disabilities or single parenthood. Apart from these cases, annual leave may also be increased based on working conditions, work contribution, and other criteria established by a branch collective agreement, employer-level collective agreement, or the employment contract itself.

Article 79 of the Labour Law prescribes that the duration of annual leave is determined in proportion to the time spent in employment.

The Labour Law also contains a mandatory provision that prohibits an employee from waiving the right to annual leave or having that right denied. This right cannot be replaced with financial compensation, except in the case of termination of employment. According to the Government, this protection ensures that employees fully exercise their right to leave, which is a key aspect of just working conditions.

Opinion of the European Committee of Social Rights

The Committee recalls that Article 2§3 guarantees the right to a minimum of four weeks, or 20 working days, of annual holiday with pay. Annual leave may not be replaced by financial compensation and employees must not have the option of giving up their annual leave.² This principle does not prevent the payment of a lump sum to an employee at the end of their employment in compensation for the paid holiday to which they were entitled but which they had not taken.³ At least two weeks of uninterrupted annual holidays must be used during the year the holidays were due. Annual holidays exceeding two weeks may be postponed in particular circumstances defined

² Conclusions I (1969), Ireland.

³ Conclusions I (1969), Statement of interpretation on Article 2§3.

by domestic law, the nature of which should justify the postponement.⁴ Allowing all annual leave to be carried over to the following year is not in conformity with Article 2§3.⁵ Workers who suffer from illness or injury during their annual leave are entitled to take the days lost at another time so that they receive the four week annual holiday provided for under this paragraph, possibly under the condition of producing a medical certificate.⁶

The Committee takes note of the information provided by the Government. Additionally, the Committee notes that Article 85 § 3 of the Labour Law allows annual leave to be carried over to the next calendar year at the employee's request, provided the employer's work process permits it. In such cases, the first part of the leave must be taken as a continuous period of at least ten working days during the current calendar year, with any remaining days to be taken no later than June 30 of the following year.

The Committee recalls its largely positive assessment of compliance with Article 2§3 (Report on non-accepted provisions 2015). In the light of the above information, the Committee considers that the situation in respect of Article 2§3 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 2§4 - The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations.

Situation in Montenegro

The report states that, according to the Law on Occupational Safety and Health ("Official Gazette of Montenegro", nos. 034/14, 044/18, 084/24), risk assessment is the systematic recording and evaluation of all factors in the work process, in accordance with the nature of the business activity of the company or entrepreneur, with the aim of identifying potential causes of occupational injuries, occupational diseases, or work-related illnesses, and determining the possibilities or methods of preventing, eliminating, or reducing risks. Prevention includes all steps and/or occupational safety and health measures undertaken or planned at all levels of work by the employer, to prevent or reduce risks to the life and health of employees.

The employer is required to plan and implement occupational safety and health measures in all work processes to prevent or reduce risks to employees' life and health. These measures are further regulated by bylaws in the field of occupational safety and health and other regulations.

Employers must follow key principles when implementing occupational safety and health measures, such as avoiding and assessing risks, eliminating hazards at the source, adapting the workplace, and keeping up with technical progress. They should prioritize collective safety measures, replace dangerous circumstances with safer alternatives, develop a comprehensive safety policy, and ensure employees receive proper instructions and information.

⁴ Conclusions 2007, Statement of interpretation on Article 2§3.

⁵ Conclusions 2018, Russian Federation.

⁶ Conclusions XII-2 (1992), Statement of interpretation on Article 2§3.

Opinion of the European Committee of Social Rights

The Committee reiterates that Article 2§4 of the Charter imposes two obligations on States Parties. Firstly, they are required to take the necessary measures to eliminate risks in inherently dangerous or unhealthy occupations. This part is closely linked to Article 3 of the Charter (right to safe and healthy working conditions), according to which States undertake to formulate policies and adopt measures to improve occupational safety and health and to prevent accidents and injury to health, particularly by minimising the causes of hazards inherent in the working environment.⁷ Secondly, they must provide compensatory measures for as long as these risks are not eliminated or sufficiently reduced.⁸ The aim of these measures is to allow for a reduced accumulation of physical and mental fatigue and a reduction in the exposure to risk, whilst at the same time granting workers longer periods of rest.⁹ It is important to note that compensatory measures should not be considered a substitute for preventive and protective measures.

States Parties have some discretion in determining which occupations are classed as hazardous or unhealthy. However, they must at least consider occupations and sectors that are clearly dangerous or unhealthy, such as mining, quarrying, steelmaking and shipbuilding, as well as occupations that expose workers to ionising radiation, extreme temperatures or excessive noise levels.¹⁰

Where risk elimination is not possible or where risk has not yet been eliminated or reduced, Article 2§4 provides for two forms of compensation: a reduction in working time and additional paid leave. In view of the emphasis placed on the interests of health and safety, other approaches to reducing risk exposure may also be employed to ensure compliance with the Charter.¹¹ Such approaches must be assessed on a case-by-case basis.¹²

The Committee has considered that financial compensation, an additional day's leave, a maximum weekly working time of 40 hours, early retirement and food supplements are not relevant or appropriate measures for achieving the aims of Article 2§4¹³.

Any measures intended to compensate workers for residual risk exposure must be governed centrally and should not be left to agreements between social partners.¹⁴

The Committee takes note of the written information provided by the Government. It further notes that Montenegro has already accepted Article 3 of the Charter, to which the first part of Article 2§4 is closely linked. The Committee further notes from the previous report¹⁵ and from Article 63 of the Labour Code that employees working in a position where, despite applying occupational health and safety measures, it is not possible to protect employees from harmful influences, shall have shorter working hours proportionally to the detrimental effect of the working conditions on their health and working ability, up to a maximum of 36 hours per week. These workplaces are defined by the act on the internal organization and systematization of job positions according to a special regulation. Employees working shorter hours according to this regulation have the same rights as full-time employees. An employee working in positions deemed as extremely difficult, arduous and

⁷ Conclusions 2022, Moldova.

⁸ Conclusions XX-3 (2014) Germany.

⁹ Conclusions V - Statement of interpretation - Article 2-4

¹⁰ Conclusions XIV-2 (1998), Norway; STTK ry and Tehy ry v. Finland, Complaint No. 10/2000, decision on the merits of 17 October 2001, §27; Conclusions 2018, Bosnia and Herzegovina.

¹¹ Conclusions (XVIII-2) 2007, Statement of Interpretation on Article 2§4

¹² Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §236

¹³ Conclusions 2003, Bulgaria ; Conclusions 2007, Romania

¹⁴ Conclusions 2014, The Netherlands

¹⁵ First report on the non-accepted provisions of the European Social Charter, Montenegro, 8 September 2015.

detrimental to health shall not work overtime on such tasks or conclude a contract of employment for such jobs with another employer.

The Committee reiterates its previous assessment that the legislation appeared to fulfil the requirements of Article 2§4, while pointing out that its assessment under Articles 3 and 11 would also be taken into consideration, given the link to those Articles. In the light of the above information, the Committee considers that the situation in respect of Article 2§4 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 2§5 - The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

Situation in Montenegro

The report states that, according to Article 76 of the Labour Law, employees have the right to a weekly rest period of at least 24 hours. This period is taken continuously and usually includes Sunday, the traditional day of rest in Montenegro, as well as an additional day preceding or following Sunday. The law also states that the total rest period, including daily rest, must amount to 36 consecutive hours. However, the law provides for exceptions when the nature of the job or work organisation does not allow for weekly rest on Sunday. In such cases, the employer must assign alternative rest days and inform the employee of the schedule. According to the report, this flexibility enables the right to weekly rest to be exercised in different working situations.

Under Article 120 of the Labour Law, employees under the age of 18 are entitled to a weekly rest period of at least two consecutive days, one of which must be Sunday to ensure that young workers have adequate time for rest and recreation, which is important for their physical and mental development. [According to Article 208 of the Labour Law, employers who do not respect the right to weekly rest may be subject to fines ranging from 2,000 to 20,000 euros.]

Opinion of the European Committee of Social Rights

The Committee recalls that Article 2§5 guarantees a weekly rest period, which insofar as possible shall coincide with the day traditionally or normally recognised as a day of rest in the country or region concerned. However, Article 2§5 allows for the rest to be taken on another day, where the type of activity so requires or for reasons of an economic nature. In such case, another day of rest during the week must be provided for.¹⁶

The right to weekly rest periods may not be replaced by compensation and workers may not be permitted to give it up.¹⁷

Taking note of the information provided by the Government, the Committee considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, it requires clarification whether there is a prohibition on weekly rest periods being waived or replaced by compensation. In the meantime, the Committee encourages the Government to pursue its efforts and to consider accepting Article 2§5 of the Charter as soon as possible.

¹⁶ Conclusions XIV-2 (1998), Statement of Interpretation on Article 2§5.

¹⁷ Conclusions 2016, Armenia.

Article 2§7 – The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

Situation in Montenegro

The report states that according to Article 70 of the Labour Law, night work is defined as work performed between 10 p.m. and 6 a.m. the following day. An employee who performs night work for at least three hours of their daily working time is entitled to special protection, in accordance with regulations in the field of occupational safety and health. An employee performing night work during a period of four months may not work at night longer than an average of eight hours in every 24-hour period. An employee performing night work who is exposed during work to particular hazards or heavy physical or mental effort may not work more than eight hours during the 24-hour period in which they perform night work. Employers organizing night work must inform the labour inspection about it. Furthermore, workers performing night work are entitled to increased pay, which is determined by a collective agreement or employment contract.

In addition, the Labour Law provides special protection for vulnerable groups, such as minors and pregnant women, who cannot be assigned to night work.

Opinion of the European Committee of Social Rights

The ECSR reiterates that Article 2§7 guarantees compensatory measures for persons performing night work. Domestic law or practice must define what is considered to be “night work” within the context of this provision, namely what period is considered to be “night” and who is considered to be a “night worker”. The measures which take account of the special nature of the work must at least include the following:

- regular medical examinations, including a check prior to employment on night work;¹⁸
- the provision of possibilities for transfer to daytime work;¹⁹
- continuous consultation with workers’ representatives on the introduction of night work, on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work.²⁰

The Committee takes note of the information provided by the Government. In addition, the Committee notes that Article 72 §3 of the Labour Law provides that the employer is obliged to provide health check-ups prior to commencing night work, as well as regular check-ups during the period of night work, in accordance with health insurance and health care regulations. Furthermore, according to Article 72 §§6 and 7 of the Labour Law, in case the medical examination finds that the employee has health problems due to night work, the employer is obliged to transfer them to perform the same work outside of night shifts, or, if this is not possible, to offer them alternative work outside of night shifts, appropriate to their level of education, qualifications, and working ability, if such possibility exists with the employer.

¹⁸ Conclusions 2003, Romania.

¹⁹ Conclusions 2003, Romania.

²⁰ Conclusions 2003, Romania.

The Committee recalls its previous positive assessment concerning this provision (First report on non-accepted provisions 2015), where it considered that the situation appeared to be in conformity with the three main aspects of this paragraph.

On the basis of the information provided in the current report, the Committee considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, it requires information on whether there is continuous consultation with workers' representatives regarding the introduction of night work, night work conditions and measures taken to reconcile the workers' needs with the special nature of night work. In the meantime, it encourages the Government to pursue its efforts and to consider accepting Article 2§7 of the Charter as soon as possible.

Article 4§1 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living.

Situation in Montenegro

The report states that Article 101 of the Labour Law regulates in detail the right of employees to a minimum wage for standard work performance and full-time work, or work time that is considered equivalent to full-time. The minimum wage, in net amount, may not be lower than 600 euros for employees at positions up to qualification level V, or 800 euros for employees with qualification level VI and above. The amount of the minimum wage is determined by the Government at the proposal of the Social Council, based on the general level of wages in the country, cost of living and its changes, and economic factors such as the requirements of economic development, the level of productivity, and the need for a high level of employment. This system ensures that the minimum wage serves not only as protection for the lowest-paid categories of employees, but also as an instrument to prevent unfair competition based on low wages, thereby protecting the interests of employers as well. The average gross wage in January 2025 amounted to 1,198 euros, while the average wage excluding taxes and contributions (net) amounted to 1,004 euros.

Opinion of the European Committee of Social Rights

The Committee recalls that Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state,²¹ regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment),²² and to special regimes or statuses (e.g. migrant workers).²³ The concept of a “decent standard of living” goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.²⁴ “Remuneration” relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done. To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage.²⁵ Where the net minimum wage is between 50% and 60% of the net average wage, it is for the State Party to establish that this wage permits a decent standard of living.²⁶

²¹ Conclusions XX-3 (2014), Greece.

²² Conclusions 2014, France.

²³ Conclusions 2014, Andorra.

²⁴ Conclusions 2010, Statement of Interpretation on Article 4§1.

²⁵ Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1.

²⁶ Conclusions XXI-3 (2019), Denmark.

Based on the information provided in the report, the Committee notes that the net minimum wage currently provided under the labour law (600 euros) amounts to approximately 60% (59,76%) of the net average national wage (1,004 euros in January 2025). In light of the above, the Committee considers that the situation in respect of Article 4§1 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 4§4 – reasonable period of notice

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to recognise the right of all workers for a reasonable period of notice for termination of contract.

Situation in Montenegro

The report states that according to Article 177 of the Labour Law, the employee has the right and the obligation to remain at work for a minimum of 30 days from the day the notice of termination of the employment contract or the decision on termination of employment is delivered. Exceptionally, the employer may terminate the employment contract without observing the notice period in cases of specified serious violation of work obligations or behaviour by the employee that prevents further work.

The employee may, by mutual agreement with the employer, cease working before the expiry of the notice period, with the right to wage compensation in the amount determined by the collective agreement or employment contract. This compensation may be lower than the regular wage, but only if agreed; otherwise, the full amount shall be paid as if the employee had worked until the end of the notice period. If the employee, at the request of the employer, ceases work before the expiry of the notice period, they are entitled to full wage compensation and other employment rights as if they had worked until the end of that period.

If the employee does not meet the expectations of the job during the probationary period, the employment shall end on the day the probationary period expires. Exceptionally, during the probationary period, either contractual party may terminate the employment contract before the expiry of the probationary period in accordance with the collective agreement and the employment contract, whereby the notice period shall be at least 5 days.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Opinion of the European Committee of Social Rights

The Committee recalls that the main purpose of Article 4§4 of the Charter, which requires a reasonable period of notice to be given before terminating employment, is to allow the persons concerned time to look for other work before their current employment ends, while they are still receiving wages.

The Committee assesses situations on a case-by-case basis. The main criterion for assessing whether a period of notice is reasonable is length of service. For example, the Committee concluded that the following periods of notice were not in conformity with the Charter: five days' notice after

less than three months of service, even during the probationary period²⁷; one month's notice for workers with five or more years' service²⁸; eight weeks' notice after at least fifteen years' service²⁹.

Payment of wages in lieu of notice is acceptable, provided that the sum paid is equivalent to that which the worker would have earned during the corresponding period of notice³⁰.

In order to ensure that the protection granted by Article 4§4 of the Charter is effective, the notice and/or compensation should not be left to the discretion of the parties to the employment contract, but should be governed by legal instruments such as legislation, case law, regulations or collective agreements³¹.

The only exception to the right of all workers to a reasonable period of notice concerns immediate dismissal for serious offences, as set out in the Annex to the Charter. It may be the result of the accumulation of several less serious breaches, if there have been prior written warnings from the employer³².

The Committee notes that, in Montenegro, the statutory minimum period of notice is 30 days, irrespective of the length of service, and may be reduced to 5 days during the probationary period, in accordance with the collective agreement and the employment contract.

The Committee recalls that it has previously identified as a possible problem that in certain cases 30 days' notice is given irrespective of length of service (First report on non-accepted provisions 2015). In light of the above, the ECSR considers that the legal framework is not yet fully compatible with the requirements of Article 4§4 of the Charter. It encourages the Government to take the necessary steps enabling acceptance of this provision as soon as possible.

Article 7§10 – The right of children and young persons to special protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Situation in Montenegro

The report states that according to Article 118 of the Labour Law, employees under the age of 18 are entitled to special protection in accordance with the law. This protection is based on the constitutional prohibition of discrimination and the obligation of the state to create conditions for equality and protection of the most vulnerable groups, especially children and young people. Special protective measures may be applied only until the goals for which they were undertaken are achieved, and they are reflected in more favourable working conditions, bans on certain types of work, and additional rights regarding rest, health, and safety at work.

Under Article 120 of the Labour Law, minors may not work in jobs that are particularly physically demanding, such as work underground or underwater, nor in jobs that may harmfully and with increased risk affect their health. This prohibition also includes jobs where they might be exposed to

²⁷ Conclusions 2007, Albania.

²⁸ Conclusions 2007, Albania and Conclusions 2003, Bulgaria.

²⁹ Conclusions 2010, Türkiye.

³⁰ Conclusions 2010, Türkiye.

³¹ Conclusions 2010, Armenia.

³² Conclusions 2010, Albania.

hazardous substances, extreme temperatures, noise, vibrations, or other risks that they cannot properly recognize or avoid due to their age and lack of experience. Additionally, a minor may not be assigned to work in another location outside their place of residence or stay, which protects their integrity and allows better control over working conditions. A collective agreement may determine shorter working hours than full-time for a minor, whereby they still exercise all employment rights in full scope. Overtime and night work for this category of employees are absolutely prohibited, and daily working hours must not exceed eight hours. During the workday, young workers who work at least four hours are entitled to a break lasting at least 30 continuous minutes, while weekly rest must last at least two consecutive days, one of which is Sunday, thus enabling proper rest and recovery. Annual leave for minors amounts to at least 24 working days, which is more compared to other categories of employees. At the time of employment, written consent from a parent, or other legal representative is required for the minor, as well as a finding from the competent health authority determining fitness for performing the work for which the employment contract is being concluded, and the work must not endanger the health, development, morality, or education of the child. The Labour Inspectorate regularly monitors compliance with these provisions, and employers are obliged to provide workplaces that correspond to the needs and capabilities of young workers.

Additionally, the Rulebook on Occupational Safety and Health Measures in the Working Environment and Workplace ("Official Gazette of Montenegro", No. 104/20), based on the Law on Occupational Safety and Health, provides additional specifications on the workplace and jobs which may be assigned to minors.

Criminal protection of children in the context of work is provided through Article 219 of the Criminal Code (neglect and abuse of a child), which states that a parent, adoptive parent, guardian, or other person who abuses a child or forces them into excessive work or work inappropriate for the child's age or into begging or, for profit, induces them to perform other acts harmful to their development, shall be punished with imprisonment from three months to five years. Furthermore, a special group of criminal offences in the Criminal Code relates to violations of labour rights. Among them, Article 224 § 1 (violation of labour rights) states that anyone who knowingly fails to comply with laws or other regulations, collective agreements, and other general acts on labour rights and special protection at work of youth, women, and persons with disabilities, thereby depriving or limiting another person's right, shall be punished with a fine or imprisonment of up to two years.

As a fundamental instrument for protecting children's rights, Article 56 of the Family Law proclaims the principle of protection of the best interests of the child. Accordingly, all activities that directly or indirectly concern the child must be guided by the best interests of the child. The Family Law also stipulates that a parent who abuses their parental rights or grossly neglects their parental duties shall be deprived of their parental rights. Examples of abuse of rights include forcing the child to do excessive or dangerous work, or work that endangers their morals, health or education, or work that is prohibited by law.

Opinion of the European Committee of Social Rights

The Committee recalls that Article 7§10 guarantees the right of children to be protected against physical and moral dangers within and outside the working environment. This covers, in particular, the protection of children against all forms of exploitation and against the misuse of information technologies and social media (for the purposes of online bullying, child pornography, grooming, harassment, etc.).³³

States Parties must prohibit the use of children in forms of exploitation such as sexual exploitation, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging, or

³³ Conclusions 2004, Bulgaria, Conclusions XXII-4 Luxembourg.

the removal of organs.³⁴ In all these cases, States Parties must ensure not only that they have the necessary legislation to prevent exploitation and protect children and young persons, but also that this legislation is effective in practice.³⁵

The following are minimum obligations:³⁶

- as legislation is a prerequisite for an effective policy against the sexual exploitation of children, Article 7§10 requires that all acts of sexual exploitation be criminalised.³⁷ In this respect, it is not necessary for a Party to adopt a specific mode of criminalisation of the activities involved, but it must rather ensure that criminal proceedings can be instituted in respect of these acts.³⁸ Furthermore, States Parties must criminalise the defined activities with all children under 18 years of age irrespective of lower national ages of sexual consent.³⁹ Child victims of sexual exploitation should not be prosecuted for any act connected with this exploitation.⁴⁰
- a national action plan combating the sexual exploitation of children should be adopted⁴¹.

The Committee recalls that it gave a positive assessment of the situation in Montenegro in its previous report, pending further information.⁴² The Committee further notes that, as a State party to both the Council of Europe Convention on Action against Trafficking in Human Beings⁴³ and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention)⁴⁴, Montenegro has committed itself to providing full protection for every child against sexual exploitation, sexual abuse and human trafficking.

The Committee notes that the present report focuses on the special protection of children in the workplace. It considers that further information is needed to enable the Committee to fully assess the situation in Montenegro, particularly with regard to protection of children from all forms of child exploitation and abuse, including sexual exploitation and abuse, human trafficking, and abuse committed through or facilitated by IT technologies.

In the meantime, the Committee encourages the Government to take the necessary steps to enable acceptance of Article 7 § 10 of the Charter as soon as possible.

Article 10§5 – The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake to encourage the full utilisation of the facilities provided by appropriate measures such as:

- a. reducing or abolishing any fees or charges;***
- b. granting financial assistance in appropriate cases;***
- c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;***

³⁴ International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, complaint No. 173/2018, decision on the merits of 26 January 2021, §185.

³⁵ International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, cited above, §176.

³⁶ Conclusions 2019, Azerbaijan.

³⁷ Conclusions XVII-2 (2005), Poland.

³⁸ Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland, Complaint No. 89/2013, decision on the merits of 12 September 2014, §58.

³⁹ Conclusions XIX-4 (2011), Croatia.

⁴⁰ Conclusions XVII-2 (2005), United Kingdom.

⁴¹ Conclusions 2004, Bulgaria; Conclusions 2019, Azerbaijan.

⁴² First Report on the non-accepted provisions of the European Social Charter, Montenegro 2015.

⁴³ [CETS No. 197](#).

⁴⁴ [CETS No. 201](#).

d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally

Situation in Montenegro

The report states that according to Article 93 of the Labour Law, the employee is obliged to continuously undergo professional training and development in accordance with their capabilities and the requirements of the work process. The costs of professional training are borne by the employer, with the possibility of financing from other sources, in accordance with legal regulations and provisions of the collective agreement. Professional training is, as a rule, conducted during working hours, unless the employer and employee agree otherwise.

The report gives a comprehensive overview of the Training Program for civil servants and state employees, which is strategically built up and developed by the Sector for Professional Training and Development of State and Local Officials and Employees within the Human Resources Administration. Trainings are held during working hours and are free of charge for all participants. In addition, the Judicial and Prosecutorial Training Center, as an independent organization, conducts training for judges, state prosecutors, advisors and interns, and can also organize training for lawyers, notaries, and public enforcement officers.

Within the framework of Montenegro's active employment policy, the Employment Agency, together with licensed providers, offers continuous, market-aligned education and training programmes to improve employability and adaptability for both unemployed persons and for employees, whose work is no longer needed due to technological, economic or restructuring changes. Successful participants receive a public certificate of completion, which improves their labour market position. In addition to educational institutions, the training provider can also be an employer who conducts training and internship programs for their own needs or the needs of the labour market, thereby ensuring workforce adaptability and employment sustainability amid dynamic changes in the economy and society.

Vocational training in schools is organized in accordance with the Law on Vocational Education, allowing schools to conduct vocational education either entirely or to deliver the theoretical component at school and the practical part with employers. When practical training is provided fully at an employer (the dual education form), the mutual rights and obligations of the student and the employer are regulated by an individual contract on education concluded by the employer and the parent, and students receive monthly compensation. The payment for the first year of education is at least 10% of the average net salary in Montenegro for the first year, 15% for the second year, and 20% for the third year. Therefore, the monthly payment per student from September 2024 is: 86.10 euros for the first grade, 129.15 euros for the second grade, and 172.20 euros for the third grade. Funds for the first and second years of education are provided by the Ministry of Education, Science and Innovation. A certain number of allowances for first-year students are provided by the Chamber of Commerce of Montenegro. In February 2025, the Ministry of Education, Science and Innovation secured €44,725.59 in funding for 238 first-year and 217 second-year students. Additionally, the Chamber of Commerce provided stipends for 23 first-year students.

Additionally, the Law on Vocational Training for Persons with Completed Higher Education provides a structured programme for graduates without work experience at that level, offering them nine-month training placements—recognized as one year of work experience and a prerequisite for sitting professional exams—accompanied by a monthly stipend funded by the state. During the training, the beneficiary is entitled to a monthly net stipend of €600. Funds for stipend payment are provided from the budget of Montenegro. Specifically, in 2024, the thirteenth cycle of the Vocational Training

Program for persons with higher education was implemented, during which 15,671 job vacancies were announced, of which 11,227 were in the private sector and 4,444 in the public sector. A total of 2,385 university graduates applied for this cycle, of which 2,284 were given the opportunity to undergo training with the desired employer starting from January 2025. The only criterion for matching candidates with employers was the average grade.

When it comes to young civil servants and employees, the Human Resources Administration has created a specific training program implemented in cycles, aimed at professional training and development of officials and employees who have just started their employment. The program is comprehensive and designed to familiarize and prepare newly hired officials and employees with the necessary knowledge and skills essential for the smooth execution of everyday tasks.

Opinion of the European Committee of Social Rights

The Committee reiterates that Article 10§5 provides for complementary measures which are fundamental to make access to vocational training effective in practice. States Parties must ensure that vocational training is free of charge or that fees are progressively reduced.⁴⁵ The granting of financial assistance in appropriate cases refers to persons who would not otherwise be in a position to undergo apprenticeship or training.⁴⁶ It entails, in addition to free or low-cost training, the provision of assistance in the form of grants, allowances or other arrangements where necessary.⁴⁷ States Parties must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of merit.⁴⁸ The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.⁴⁹ The time spent on supplementary training at the request of the employer must be included in the normal working-hours.⁵⁰ States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships.⁵¹ In particular, the participation of employers' and workers' organisations is required in the supervision process.⁵²

The Committee recalls that under Article 10§5 of the Charter, equality of treatment as regards access to financial assistance for studies shall be provided to nationals of other States Parties lawfully resident in any capacity, or having authority to reside by reason of their ties with persons lawfully residing, in the territory of the Party concerned. This implies that no length of residence may be required from students and trainees admitted to reside in any capacity other than being a student or a trainee, or having authority to reside by reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training.⁵³ States Parties who impose a permanent residence requirement or any length of residence requirement on nationals of other States Parties in order for them to apply for financial aid for vocational education and training are in breach of the Charter.⁵⁴

⁴⁵ Conclusions 2020, Malta.

⁴⁶ Conclusions XIII-1 (1993), Türkiye.

⁴⁷ Conclusions XIII-1 (1993), Türkiye.

⁴⁸ Conclusions XIX-1 (2008), Türkiye.

⁴⁹ Conclusions 2016, Italy; Conclusions XIV-2 (1998), Ireland.

⁵⁰ Conclusions 2020, Türkiye.

⁵¹ Conclusions 2020, Lithuania.

⁵² Conclusions XIV-2 (1998), United Kingdom.

⁵³ Conclusions 2016, Türkiye, Latvia ; Belgium ; Conclusions 2020 Malta, Cyprus.

⁵⁴ Conclusions 2016, Türkiye; Latvia, Belgium ; Conclusions 2020 Austria, Malta, Hungary, Cyprus.

The Committee recalls its previous positive assessment concerning this provision (First report on non-accepted provisions 2015). Based on the information provided by the Government, it considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, it requires information on measures taken to evaluate vocational training programmes for young workers, including apprenticeships and of the participation of employers' and workers' organisations in this process. The Committee also requires clarification as to whether nationals of other State Parties who are lawfully resident, have equal access to financial assistance for vocational training. In the meantime, the Committee encourages the Government to pursue its efforts and to consider accepting Article 10§5 of the Charter as soon as possible.

Article 18 – The right to engage in a gainful occupation in the territory of other Parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

- 1. to apply existing regulations in a spirit of liberality;***
- 2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;***
- 3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;***

and recognise:

- 4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.***

Situation in Montenegro

According to the report, the Law on Foreigners ("Official Gazette of Montenegro", No. 12/2018) regulates the conditions for entry, exit, movement, stay, and work of foreigners in Montenegro. This law, together with the by-laws adopted for its implementation, is fully aligned with relevant EU directives. In order to further align with the legislation of the European Union concerning the posting of workers in the framework of the provision of services, on the right to family reunification, the procedure for adopting the Law on Amendments to the Law on Foreigners has been initiated. Likewise, through amendments to the Law on Foreigners, it is necessary to fully transpose Council Directive 2003/109/EC of 25 December 2003 concerning the status of third-country nationals who are long-term residents, especially regarding the termination of permanent residence permits due to absence from Montenegro, as well as full transposition of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

One of the intentions of these amendments is to simplify the procedures for issuance/extension of temporary residence and work permits. The most important novelty in the Draft Law on Amendments to the Law on Foreigners is that provisions have been defined allowing foreigners to submit applications for temporary residence permits and temporary residence and work permits electronically, via the information system managed by the Ministry of the Interior. Also, provisions have been defined that allow foreigners to extend temporary residence/work permits even if their travel document has expired.

The Parliament of Montenegro also adopted the Law on Amendments to the Law on Foreigners ("Official Gazette of Montenegro", No. 03/19) to address the need to simplify the procedures for issuing temporary residence and work permits for employment and seasonal employment. The key

novelty in this law, concerning foreigner employment, is that the annual number of temporary residence and work permits (the annual quota) is determined by sectors, and not by occupations, in which foreigners may be employed. In addition to this, the deadlines for resolving submitted applications have been shortened from 20 to 15 days; foreigners are allowed to work as executive directors for multiple employers; foreign entrepreneurs and executive directors in companies where they are the sole or majority owners (over 51%) may be granted work permits even if over 67 years of age; and when submitting a request for a temporary residence and work permit, the foreigner/employer is not required to provide an excerpt from the employer's systematization act.

The determination of the annual number of temporary residence and work permits for foreigners is conducted based on Article 76 of the Law on Foreigners, which prescribes that the Government of Montenegro, in line with migration policy and the labour market situation, adopts by 30 November each year a decision on the annual quota of permits for the following year. This quota determines the sectors in which foreigners may be employed and specifically separates permits for employment and seasonal work.

The annual quota, pursuant to Article 77 of the Law on Foreigners, is determined upon the proposal of the state administration body responsible for labour, with prior opinions obtained from the Employment Agency of Montenegro, competent bodies for specific sectors, and the Social Council.

The criteria and procedure for determining the quota are prescribed by the Regulation on the criteria and procedure for determining the annual number of temporary residence and work permits for foreigners, with the key criteria being: the ratio of supply and demand on the labour market, the possibility of engaging domestic labour, foreigner employment in the previous period, utilization of the quota in the previous year, employer needs for employment in the upcoming year.

For the 2024 decision, a quota of 28,988 permits was established, of which 5,000 permits were reserved for additional allocation based on labour market needs, at the request of the Employment Agency. According to data from the Ministry of Interior, during 2024, a total of 38,019 temporary residence and work permits were issued (24,748 within the quota and 13,271 outside the quota), which is 2.37% less than the previous year. Of the permits issued within the quota, 91.15% were for employment, and 8.85% for seasonal work.

The Ministry of Labour, Employment and Social Dialogue, considering the prescribed criteria, data on issued permits, labour market analysis, and employer proposals, prepared the draft annual quota of permits for 2025.

According to the Law on Administrative Fees ("Official Gazette of Montenegro", No. 18/2019), a foreigner requesting the issuance or extension of a residence or work permit is required to submit proof of payment of the following administrative fees:

- For a request: 2.00 euros (tariff number 1);
- For issuance of a temporary residence permit: 40.00 euros (tariff number 13);
- For the extension of the temporary residence permit: 20.00 euros (tariff number 13);
- For issuance of a permanent residence permit: 60.00 euros (tariff number 13);
- For issuance of a permit for temporary residence and work: 60.00 euros (tariff number 13);
- For the extension of the permit for temporary residence and work: 30.00 euros (tariff number 13);
- For the issuance of a certificate of registration of work of a foreigner for up to 30 days: 20.00 (tariff number 13);
- For the issuance of a certificate of registration of work of a foreigner for up to 60 days: 40.00 euros (tariff number 13);
- For the issuance of a certificate of registration of work of a foreigner for up to 90 days: 60.00 euros (tariff number 13);

The fee for issuing or extending a temporary residence permit is not paid by foreign nationals residing in Montenegro for the purpose of education and training, and by nationals of countries with which Montenegro has concluded an agreement on waiver of temporary residence permit fees.

In addition, the cost of preparing a temporary Residence and Temporary Residence and Work Permits permit amounts to 5.00 euros for both types of permits.

The Employment Agency of Montenegro monitors and analyses data on unemployed foreigners registered in the records of unemployed persons, as well as on employed foreigners in Montenegro, based on data obtained from competent authorities.

Additionally, the Labour Law of Montenegro also applies to foreign citizens and stateless persons working for an employer in Montenegro, unless otherwise regulated by law and to self-employed persons. The provisions of this law related to the prohibition of discrimination apply to all employees in the above-mentioned categories and cannot be otherwise regulated by a special law.

Opinion of the European Committee of Social Rights

Article 18§1: “to apply existing regulations in a spirit of liberality”

The Committee reiterates that Article 18 applies to employees and the self-employed who are nationals of States which are party to the Charter. It also covers members of their family allowed into the country for the purposes of family reunion. Article 18 relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory.⁵⁵

Economic or social reasons might justify limiting access of foreign workers to the national labour market. This may occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers.⁵⁶ However, the implementation of such policies should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.⁵⁷

The Committee recalls that it assesses the degree of liberality in applying existing regulations based on figures showing the rejection rates for work permits for both first-time and renewal applications.⁵⁸ A high percentage of successful applications by nationals of States Parties to the Charter for work permits and for renewal of work permits and a low percentage of refusals has been regarded by the Committee as a clear sign that existing regulations are being applied in a spirit of liberality⁵⁹.

The Committee notes that the number of temporary residence and work permits issued in Montenegro in 2024 for foreigners in Montenegro represented a decrease of 2.37% compared to the previous year. The Committee takes note of the information provided by the Government and recalls its previous generally positive assessment concerning this provision (First report on non-accepted provisions 2015). It considers that further information, in particular statistical data concerning the refusal rates for work permits, is necessary to assess whether the situation in law and practice is fully compatible with the requirements of Article 18§1 the Charter.

⁵⁵ Conclusions XIII-1 (1993), Sweden)

⁵⁶ Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3.

⁵⁷ Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3.

⁵⁸ Conclusions XXII-1 (2020), Germany.

⁵⁹ Conclusions 2012, Serbia.

In the meantime, the Committee encourages the Government to pursue its efforts and to consider accepting Article 18§1 of the Charter as soon as possible.

Article 18§2 “to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers”

The Committee recalls that conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application.⁶⁰ It also implies that the documents required (residence/work permits) will be delivered within a reasonable time⁶¹.

In addition, States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.⁶² In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers. In addition, States Parties have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers.⁶³

With regard to the simplification of existing formalities, the Committee notes the information provided by the Government on the draft law amending the Law on Foreigners. This aims to simplify procedures for issuing and extending temporary residence and work permits by allowing foreigners to submit applications for such permits electronically via the information system managed by the Ministry of the Interior. It also allows foreigners to extend temporary residence and work permits even if their travel document has expired. The Committee further notes the amendments to the Law on Foreigners aimed at simplifying procedures for issuing temporary residence and work permits, notably by setting annual quotas by sector (not by occupation), shortening the deadlines for resolving submitted applications from 20 to 15 days, easing rules for executive directors and foreign entrepreneurs, and reducing documentation requirements for work permit applications.

The Committee recalls its previous positive assessment of Article 18§2 (Report on non-accepted provisions 2015). In light of the above, the Committee considers that the situation in respect of Article 18§2 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 18§3

“to liberalise, individually or collectively, regulations governing the employment of foreign workers”.

The Committee reiterates that under Article 18§3 of the Charter, States Parties are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

- Access to the national labour market

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive. States Parties may make foreign nationals' access to employment on their

⁶⁰ Conclusions 2016, Armenia; Conclusions XVII-2 (2005), Finland.

⁶¹ Conclusions XVII-2 (2005), Portugal.

⁶² Conclusions 2012, Statement of Interpretation of Article 18§2.

⁶³ Conclusions 2012, Statement of Interpretation of Article 18§2.

territory subject to possession of a work permit, but they cannot ban nationals of States Parties in general from occupying jobs for reasons other than those set out in Article G of the Charter. In order not to be in contradiction with Article 18 of the Charter, the implementation of policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States Parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.⁶⁴

- Recognition of certificates, qualifications and diplomas

States Parties must make efforts to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, progressively reducing the disadvantages for foreign workers to engage in a gainful occupation due to lack of recognition of foreign diplomas or professional qualifications substantially equivalent to those issued by national authorities, schools, universities or other training institutions.⁶⁵

The Committee notes that Articles 5 and 6 of the Law on Recognition and Assessment of Foreign Educational Certificates and Qualifications⁶⁶ stipulates that any Montenegrin citizen, as well as a citizen of another country, a stateless person, an asylum seeker, a foreigner under subsidiary protection and a foreigner seeking international protection shall be granted the right to recognition of foreign educational certificates and qualifications for the purpose of continuing education or employment in Montenegro.

- Rights in the event of loss of employment

As a rule, the loss of employment should not lead to the cancellation of the residence permit, as this would require the worker to leave the country as soon as possible. The validity of the residence permit should in fact be extended to give them enough time to find a new job.⁶⁷

The Committee notes that the report, while generally referring to legislative projects aiming to fully implement relevant EU legislation, does not provide any specific information on the liberalisation of regulations governing the employment of foreign workers and does not contain any information on the legal consequence of loss of employment with respect to the residence permit. The Committee notes that it had considered in its previous report (First report on non-accepted provisions 2015) that there had been signs of progress with regard to the improvement of equal access of foreigners to the labour market.

In light of the above, the Committee considers that further information is necessary to assess whether the situation in law and practice is fully compatible with the requirements of the Charter. In particular, it requires specific information notably on the liberalisation of regulations governing the employment of foreign workers (including from non-EU member States), and on the impact of loss of employment on residence rights.

In the meantime, the Committee encourages the Government to pursue its efforts and to consider accepting Article 18§3 of the Charter as soon as possible.

⁶⁴ Conclusions 2016, Italy, Article 18§3; Conclusions 2012, Statement of interpretation on Article 18§§1 and 3.

⁶⁵ Conclusions 2012, Statement of interpretation on Article 18§3.

⁶⁶ Law on the Recognition of Foreign Educational Credentials and Qualifications Equivalence.

⁶⁷ Conclusions XXII-1 (2020), Germany, Article 18§3.

Article 18§4

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties recognise the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

The Committee recalls that, in order to comply with Article 18§4, there must be a legal framework guaranteeing the right of nationals to leave their country without restriction.⁶⁸ People whose right to leave the country is restricted must have legal remedies to challenge such decisions.⁶⁹

The Committee recalls that it had previously considered that Montenegro appeared to be in conformity with the requirements of this provision (First report on non-accepted provisions 2015).

In the absence of information on the relevant legal framework, the Committee considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, it requires information on the existence of a legal framework guaranteeing the rights of nationals to leave their country and of any legal remedies in case such rights are restricted. In the meantime, the Committee encourages the Government to pursue its efforts and to consider accepting Article 18§4 of the Charter as soon as possible.

Article 19 – The right of migrant workers and their families to protection and assistance

Paragraph 1-Assistance and information on migration

Paragraph 2 - Departure, journey and reception

Paragraph 3 - Co-operation between social services of emigration and immigration states

Paragraph 4- Equality regarding employment, right to organise and accommodation

Paragraph 5 - Equality regarding taxes and contributions

Paragraph 6 - Family reunion

Paragraph 7 - Equality regarding legal proceedings

Paragraph 8 - Guarantees concerning deportation

Paragraph 9 - Transfer of earnings and savings

Paragraph 10 - Equal treatment for the self-employed

Situation in Montenegro

According to the report, the Labour Law of Montenegro applies to employees working in the territory of Montenegro for domestic or foreign legal or natural persons, including employees in state authorities, state administration bodies, local self-government units, and public services, self-employed persons, as well as foreign nationals and stateless persons who work for an employer in the territory of Montenegro, unless regulated otherwise by law.

The relatively frequent amendments to the legal framework on the stay and employment of foreigners in Montenegro are mainly the result of the need to transpose the European legal acquis into Montenegrin legislation. The Law on Foreigners ("Official Gazette of Montenegro", No. 12/2018), which entered into force on 3 March 2018, regulates the conditions for entry, exit, movement, stay, and work of foreigners in Montenegro. According to the report, this law, along with its implementing by-laws, is aligned with the relevant EU directives.

The Law on Foreigners establishes clear, transparent, and fair rules with regard to the policy of returning persons who are illegally residing in Montenegro. Voluntary departure is preferred over forced return. The most important novelty in the new Law on Foreigners concerns the entry, exit,

⁶⁸ Conclusions 2020, Latvia.

⁶⁹ Conclusions 2020, Latvia.

movement, stay, and employment of nationals of EU member states and their family members, who will be granted the same rights as Montenegro citizens. In order to employ highly qualified third-country nationals, procedures for obtaining temporary residence and work permits have been prescribed. These provisions will apply from the date of Montenegro's accession to the European Union.

The Law on Foreigners also harmonized the normative framework, in the field of migration, with the Istanbul Convention, specifically with the aim of enabling victims of violence against women and domestic violence to resolve their residence status in Montenegro.

Further amendments to the Law on Foreigners ("Official Gazette of Montenegro", No. 86/22) introduced the regulation of stay for persons who are employed or perform work electronically for a foreign business or their own company not registered in Montenegro – the so-called digital nomad residence.

At its session held on 23 September 2021, the Government of Montenegro adopted the Strategy on Migration and Reintegration of Returnees in Montenegro for the period 2021–2025, along with an Action Plan for 2021 and 2022. Preparation of amendments to the Law on Foreigners is foreseen as one of the activities in the plan. To this end, the Minister of the Interior established an interdepartmental working group which includes representatives of the relevant government entities, the Union of Employers of Montenegro, UNHCR, IOM, the Red Cross of Montenegro and NGO Juventas.

The draft amendments aim to implement several EU directives (concerning the posting of workers in the framework of the provision of services, the right to family reunification, the status of long-term resident third-country nationals, and the freedom of movement of Union citizens and their family within the territory of the Member States) and to harmonise the Law on Foreigners with the Law on Life Partnership of Same-Sex Persons ("Official Gazette of Montenegro", No. 67/2020). They further aim at eliminating certain shortcomings that have arisen in practice when applying the current law, and to simplify the procedures for issuing and extending temporary residence and work permits.

In addition to the above reasons, amendments to the Law were also made in view of the need for further clarification of the procedure for determining the status of stateless persons, based on the recommendations of the United Nations High Commissioner for Refugees (UNHCR) and the European Commission's TAIEX mission in 2021.

A first Draft Law was prepared and submitted for public consultation and opinion in 2023. And a revised Proposal Law was resubmitted to all government departments for opinion in late December 2024. The Proposal Law was submitted to the European Commission for opinion on 3 March 2025. After consultations with the EC, the Proposal (depending on comments) will be sent to competent ministries for interdepartmental harmonization, proposed to one of the government commissions and, once approved, submitted for adoption at a Government session.

The most significant key novelty in the revised Proposal Law is the introduction of provisions enabling foreigners to apply for and extend temporary residence and work permits electronically. Provisions have also been introduced to allow foreigners to extend temporary residence/work permits even if their travel document has expired.

Furthermore, the Proposal Law "recognises," i.e., enables, certain benefits for the regulation of temporary residence for employment in the IT sector, for the employment in the healthcare sector, and for the employment under employment contracts for household work.

Social and child protection rights, as prescribed in Article 5 of the Law on Social and Child Protection ("Official Gazette of Montenegro", Nos. 27/2013, ... 33/2025), may be exercised by Montenegrin citizens residing in the territory of the state, as well as foreigners with approved temporary or permanent residence, asylum seekers and persons under subsidiary protection, in accordance with applicable laws. Exceptionally, persons not falling into these categories but who find themselves in special circumstances and social risk are entitled to one-time financial assistance and temporary accommodation services.

The right to social housing, as defined in Article 3 of the Law on Social Housing ("Official Gazette of Montenegro", Nos. 35/2013 and 84/2024), is granted to citizens with permanent residence lacking adequate housing or whose housing does not meet minimum standards and who are unable to secure adequate accommodation due to low income, as well as to eligible foreign nationals and stateless persons whose status is regulated by law or international instruments. This provision aims to ensure social security and housing stability for the most vulnerable population categories, contributing to reducing social inequalities and improving quality of life.

Regarding the right to health care, according to Article 12 of the Law on Health Care of Montenegro, foreigners are entitled to health services in accordance with the provisions of that law and international agreements; emergency medical assistance must be provided to all foreigners without delay. The costs of emergency medical assistance or other types of health care are borne by the foreigner himself, unless international agreements provide otherwise.

The General Law on Education and Training establishes the framework for all levels of education. Article 9 of this law clearly defines the equality of all Montenegrin citizens in exercising their right to education, regardless of nationality, race, gender, language, religion, social origin, disability or other personal characteristics. Foreign citizens with temporary residence or permanent residence in Montenegro have the same rights to education as Montenegrin citizens, in accordance with a special law.

The regulatory framework under the jurisdiction of the Central Bank of Montenegro does not impose any restrictions on the transfer of migrant worker's earnings and savings to their home countries. Montenegro became a member of the SEPA geographical area in November 2024, allowing its banking system to prepare for full SEPA integration. The Government emphasises that accession to the SEPA system represents a significant step towards strengthening the financial integration of Montenegro with the European Union, contributes to a more competitive, secure and efficient payment transaction, and further strengthens the trust of citizens, investors and partners in the stability and modernisation of the financial sector.

Opinion of the European Committee of Social Rights

Article 19§1

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake: to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration.

The Committee reiterates that this provision guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate.⁷⁰

⁷⁰ Conclusions I (1969), Statement of Interpretation on Article 19§1.

Information should be reliable and accurate and cover issues such as formalities to be completed and the living and working conditions they may expect in the country of destination.⁷¹ Free information and assistance services for migrants must be accessible in order to be effective.⁷²

In addition, States Parties must take measures to prevent misleading propaganda relating to immigration and emigration.⁷³ Such measures should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter.⁷⁴

To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking.⁷⁵ Such measures, which should be aimed at the whole population, are necessary *inter alia* to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease.⁷⁶ In order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere.⁷⁷ States Parties must also take measures to raise awareness about misleading propaganda amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.⁷⁸

The Committee recalls that it has previously given a positive assessment to the acceptance of paragraph 1, subject to further information.⁷⁹ Taking note of the information provided by the Government, the Committee considers that further information remains necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter.

In particular, the Committee requires specific information on the provision of free information and assistance services for Montenegrin nationals wishing to emigrate, and for nationals of other States Parties wishing to immigrate. The Committee also requires information on measures taken against misleading propaganda relating to emigration and immigration. In the meantime, the Committee encourages the Government to continue its efforts and consider accepting Article 19 § 1 of the Charter as soon as possible.

Article 19§2

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake: to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey

The Committee recalls that Article 19§2 obliges States Parties to adopt special measures for the benefit of migrant workers to facilitate their departure, journey and reception⁸⁰.

⁷¹ Conclusions III (1973), Cyprus; Conclusion XV-1 (2000), Austria

⁷² Conclusions 2015, Armenia; Conclusions 2019, Albania.

⁷³ Conclusions XIV-1 (1998), Greece.

⁷⁴ Conclusions 2019, Estonia, citing Conclusions XIV-1 (1998), Greece

⁷⁵ Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 138-140

⁷⁶ Conclusion XV-1 (2000), Austria; Conclusions 2019, Albania

⁷⁷ Conclusions 2019, Albania

⁷⁸ Conclusions 2019, Albania

⁷⁹ First report on the non-accepted provisions of the European Social Charter, Montenegro, 2015.

⁸⁰ Conclusions III (1973), Cyprus; Conclusions 2023, Armenia.

‘Reception’ means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty.⁸¹ Special measures must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.⁸²

The obligation to “provide within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey” relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment. The ECSR considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the State is not responsible.⁸³

The ECSR takes into account the actual patterns of immigration and emigration for employment purposes meaning the lower level of immigration or emigration the lower the expectations are of a State Party.⁸⁴

Specifically, Article 19§2 requires that:

- specific steps are taken in the period following the arrival of any new migrants to assist them;
- the assistance, financial or otherwise, available to all migrants in emergency situations, in particular in response to their needs of food, clothing and shelter;
- limits or restrictions on the access of working migrants to state welfare provision; and that
- the rules govern the access to healthcare for all migrants, irrespective of their status, in particular in emergency.⁸⁵

The Committee notes that the report refers to rights in the field of social law and child protection, which are available to foreigners with approved temporary or permanent residence, as well as asylum seeker and persons under subsidiary protection. Exceptionally, persons not falling under these categories but who find themselves in special circumstances and social risk are entitled to one-off financial assistance and accommodation services. In addition, the right to social housing may be exercised by foreign national or stateless persons whose status is regulated by law or international instruments. Foreigners have the right to health care and health institutions and health workers have the obligation to provide emergency medical assistance to every foreigner without delay. The costs for emergency medical assistance or other types of health care are borne by the foreigner, unless international agreements provide otherwise.

The ECSR has previously given a positive assessment with regard to Article 19§ 2 (Report on non-accepted provisions 2015). Taking note of the information provided by the report, the ECSR considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. In particular, the ECSR requires information on any specific steps taken in the period following the arrival of any new migrants to assist them; the assistance, financial or otherwise, available to all migrants in emergency situations, in particular in response to their needs of food, clothing and shelter; and any limits or restrictions on the access of working migrants to state welfare provision.

⁸¹ Conclusions IV (1975), Statement of interpretation on Article 19§2.

⁸² Conclusions IV (1975), Germany.

⁸³ Conclusions IV (1975), Statement of interpretation on Article 19§2.

⁸⁴ Conclusions V – Cyprus ; Conclusions XV-1 – Türkiye.

⁸⁵ Conclusions 2019, Armenia.

In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19 § 2 of the Charter as soon as possible.

Article 19§3

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake: to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries

The ECSR recalls that the scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State.

Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin.⁸⁶ Formal arrangements are not always necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co-operation on a need basis may be sufficient.⁸⁷

Common situations in which such co-operation would be useful include where the migrant worker, who has left their family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to their country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which they were employed.⁸⁸

In order to assess States Parties' compliance with Article 19§3, the ECSR takes into consideration the following information:

- the form and nature of contacts and information exchanges established by social services in emigration and immigration countries;
- measures taken to establish such contacts and to promote the cooperation between social services in other countries;
- international agreements or networks, and specific examples of cooperation (whether formal or informal) which exist between the social services of the country and other origin and destination countries;
- whether the cooperation extends beyond social security alone (for example in family matters);
- examples of cooperation at a local level.⁸⁹

The ECSR has previously given a positive assessment with regard to Article 19§ 2 (Report on non-accepted provisions 2015). Taking note of the information provided in the present report, the ECSR considers that additional information is necessary to assess whether the situation in law and practice is compatible with the requirements of Article 19 §3 of the Charter, as set out above.

In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19 § 3 of the Charter as soon as possible.

⁸⁶ Conclusions XIV-1 (1998), Belgium.

⁸⁷ Conclusions 2019, Albania.

⁸⁸ Conclusions XV-1 (2000), Finland.

⁸⁹ Conclusions 2019, Albania ; Conclusions 2023, Serbia.

Article 19§4

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

(a) remuneration and other employment and working conditions,

(b) trade union membership and the enjoyment of benefits of collective bargaining, and (c) accommodation

The ECSR recalls that under Article 19§4, States Parties are required to prove the absence of discrimination, whether direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination.⁹⁰ In order to monitor and ensure that no discrimination occurs in practice, States Parties should have in place sufficient effective monitoring procedures or bodies to collect information, for example disaggregated data on remuneration or information on cases in employment tribunals.⁹¹ The ECSR considers that the exercise of the right to equal treatment provided in Article 19 para. 4 of the Charter can only be effective if there is a right of appeal before an independent body against administrative decisions.⁹²

Article 19§4(a) obliges States Parties to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion as well as vocational training.⁹³

Article 19§4(b) requires States Parties to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining, including the right to be founding member and access to administrative and managerial posts in trade unions.⁹⁴

The ECSR notes that the Labour Law, which defines the rights and obligations of employees, and how they are exercised, applies to all employees working in Montenegro, including foreign nationals and stateless persons, as well as self-employed persons. According to the Government, the provisions of the Labour Law concerning the prohibition of discrimination apply to all employees in the above categories and cannot be regulated otherwise by a special law.

The ECSR notes that the report does not contain any specific information on how the implementation of the prohibition of discrimination with regard to labour rights is ensured in practice, including through appropriate monitoring. It therefore considers that additional information is needed to fully assess the situation under Article 19§4(a) and (b).

⁹⁰ Conclusions III (1973), Statement of Interpretation on Article 19§4; European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §§ 202-203.

⁹¹ Conclusions XX-4 (2015), Germany; Conclusions 2019, Albania.

⁹² Conclusions XV-1 (2000), Finland ; Conclusions 2019, Albania.

⁹³ Conclusions VII (1981), United Kingdom; Conclusions 2019, Albania.

⁹⁴ Conclusions XIII-3 (1995), Turkey; Conclusions 2011, Statement of interpretation on Article 19§4b; Conclusions XIX-4 (2011), Luxembourg.

The undertaking of States Parties in Article 19 4 c) is to eliminate all legal and de facto discrimination concerning access to public and private housing.⁹⁵ There must be no legal or de facto restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances.⁹⁶ The right to equal treatment provided in Article 19§4(c) can only be effective if there is a right of appeal before an independent body against the relevant administrative decisions.⁹⁷

The ECSR notes that, according to the report, the right to social housing may be exercised by foreign nationals and stateless persons whose status is provided by law or international instruments.

The ECSR recalls that it has previously considered that it required further information to make an assessment of Article 19§4 (First report on non-accepted provisions 2015).

In the light of the above, the ECSR considers that additional information is necessary to assess whether the situation in law and practice is fully compatible with the requirements of Article 19 §4 of the Charter, notably on how the provisions on non-discrimination of migrant workers with regard to labour and trade-union rights are implemented and monitored in practice, and how access of migrant workers to private housing is ensured without discrimination.

In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19 § 4 of the Charter as soon as possible.

Article 19§5

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons

The ECSR reiterates that this provision recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.⁹⁸ The ECSR has previously given a positive assessment with regard to Article 19§5 (Report on non-accepted provisions 2015). Taking note of the information provided in the present report, the ECSR considers that additional information is necessary to assess whether the situation in law and practice is fully compatible with the requirements of Article 19 §5 of the Charter, notably whether contributions payable in relation to employment apply equally to migrants and nationals.

In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19 § 5 of the Charter as soon as possible.

Article 19§6

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

⁹⁵ European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 111-113; Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 145-147 (finding of violation of Article E taken in conjunction with Article 19§4c).

⁹⁶ Conclusions III (1973), Italy; Conclusions 2019, Albania

⁹⁷ European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §204, citing Conclusions XV-1 (2000), Finland

⁹⁸ Conclusions 2019, Albania, citing Conclusions XIX-4 (2011), Greece

to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory.

The ECSR recalls that this provision obliges States Parties to allow the families of migrants legally established in State Party Territory to join them.⁹⁹ The migrant worker's children entitled to family reunion are those who are dependent, unmarried, and who fall under the legal age of majority in the receiving State.¹⁰⁰

States Parties may not deny entry to their territory for the purpose of family reunion to a family member of a migrant worker for health reasons, except for specific illnesses which are so serious as to endanger public health.¹⁰¹

States Parties may require a certain length of residence of migrant workers before their family can join them. A period of one year is acceptable under the Charter, but a longer period is considered excessive.¹⁰²

The requirement of having sufficient or suitable accommodation to house the family or certain family members as a precondition for its admission to a State Party should not be so restrictive as to prevent family reunion.¹⁰³ The level of means required by States Parties to bring in a migrant worker's family or certain family members also should not be so restrictive as to prevent any family reunion.¹⁰⁴ Social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion.¹⁰⁵

Requirements that family members pass language and/or integration tests or complete compulsory courses are contrary to Article 19§6 of the Charter where they have the potential effect of denying entry or the right to remain to family members of a migrant worker, or otherwise deprive the right guaranteed under Article 19§6 of its substance.¹⁰⁶

Even where the requirements for the expulsion of a migrant worker are met under Article 19§8, the members of the worker's family who are in the territory of the receiving State should not be deported as consequence of the migrant worker's expulsion. The right to family reunion provided for in Article 19§6 confers on each of its beneficiaries a personal right of residence distinct from the original right held by the migrant worker.¹⁰⁷ The conformity of the expulsion of family members of a migrant worker with the Charter is assessed under Article 19§6.¹⁰⁸

Restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness.¹⁰⁹

The ECSR recalls its previous report, in which it concluded that further information was necessary in order to make an assessment under Article 19§6 (First report on non-accepted provisions 2015). The ECSR takes note of the written information provided by the Government, specifically that the

⁹⁹ Conclusions 2019, Albania.

¹⁰⁰ Appendix to the Revised European Social Charter, European Treaty Series - No. 163.

¹⁰¹ Conclusions XVI-1 (2002), Greece; Conclusions XV-1 (2000), Finland.

¹⁰² Conclusion 2011, Statement of Interpretation on Article 19§6.

¹⁰³ Conclusions IV (1975), Norway.

¹⁰⁴ Conclusions XVII-1 (2004), The Netherlands.

¹⁰⁵ Conclusions 2011, Statement of Interpretation on Article 19§6.

¹⁰⁶ Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests.

¹⁰⁷ Conclusions XVI-1 (2002), The Netherlands, Article 19§8.

¹⁰⁸ Conclusions 2015, Statement of interpretation on Article 19§6 and 19§8.

¹⁰⁹ Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements.

Law on Foreigners was amended in 2018 and subsequent years (the ECSR understands that certain amendments are still to be adopted) *inter alia* to align it with the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. The Government notes that the provisions concerning the entry, exit, movement, stay, and employment of nationals of EU member states and their family members will apply from the date of Montenegro's accession to the European Union.

While taking note of this information, the ECSR observes that the report does not contain any information concerning the rights of migrant workers to reunite with their families under the currently applicable provisions of the law. Furthermore, the ECSR reiterates its observation from the 2015 report that, in some respects, the Charter goes beyond the abovementioned EU Directive. In light of these considerations, the ECSR finds that further information is necessary in order to determine whether the situation in law and practice is compatible with the requirements of the Charter. In particular, the ECSR asks for information concerning the right of foreign workers' family members to stay in Montenegro, the requirements and procedure for granting such a stay as well as any restrictions on this right imposed under the law. In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19§6 of the Charter as soon as possible.

Article 19§7

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article.

Under this provision, States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals.¹¹⁰ This obligation applies to all legal proceedings concerning the rights guaranteed by Article 19 (i.e. pay, working conditions, housing, trade union rights, taxes).¹¹¹

More specifically, any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of their own choosing should be advised that they may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter.¹¹² Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated.¹¹³ Such legal assistance should be extended to obligatory pre-trial proceedings.¹¹⁴

The ECSR recalls its previous positive assessment with regard to this provision, subject to further information (First report on non-accepted provisions 2015). However, the Committee notes that the present report does not contain any information with regard to the right of foreign workers to have access to courts, lawyers and legal aid in all proceedings concerning the rights guaranteed by Article 19, on the same conditions as the nationals of Montenegro. Therefore, in order to determine whether

¹¹⁰ Conclusions I (1969), Italy, Norway, United-Kingdom; Conclusions I (1969), Germany; Conclusions 2019, Albania.

¹¹¹ Conclusions I (1969), Germany.

¹¹² Conclusions 2011, Statement of Interpretation on Article 19§7.

¹¹³ Conclusions 2011, Statement of Interpretation on Article 19§7.

¹¹⁴ Conclusions 2011, Statement of Interpretation on Article 19§7.

the situation in law and practice is compatible with the requirements of the Charter, the ECSR asks for specific information on these issues, as well as on the right to interpretation/translation in such proceedings. In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19§7 of the Charter as soon as possible.

Article 19§8

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality.

The ECSR recalls that Article 19§8 obliges States Parties to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality.¹¹⁵

To comply with the Charter, an expulsion must be ordered by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review.¹¹⁶ Expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality.¹¹⁷ Expulsion orders must be proportionate, taking into account all aspects of the individual's behaviour as well as the circumstances and the length of time of their presence in the territory of the State.¹¹⁸

Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment.¹¹⁹

The fact that a migrant worker is dependent on social assistance cannot be regarded as a threat against public order and cannot constitute a ground for expulsion.¹²⁰

States Parties must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body.¹²¹

Collective expulsions are not in conformity with the Charter; decisions on expulsion may be made only on the basis of a reasonable and objective examination of the particular situation of each individual.¹²²

The ECSR recalls its previous report, in which it concluded that further information was necessary in order to make an assessment under Article 19§8 (First report on non-accepted provisions 2015). The ECSR notes that, while the Government's report mentions the return of persons illegally residing

¹¹⁵ Conclusions VI (1979), Cyprus; Conclusions 2011, Statement of Interpretation on Article 19§8; Conclusions 2015, Statement of interpretation on Article 19§8.

¹¹⁶ Conclusions 2015, Statement of interpretation on Article 19§8.

¹¹⁷ Conclusions 2015, Statement of interpretation on Article 19§8.

¹¹⁸ Conclusions 2015, Statement of interpretation on Article 19§8.

¹¹⁹ Conclusions V (1977), Germany.

¹²⁰ Conclusions V (1977), Italy.

¹²¹ Conclusions V (1977), United Kingdom; Conclusions 2015, Statement of interpretation on Article 19§8.

¹²² Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 155-158; Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 63/2010, decision on the merits of 28 June 2011, §§ 68-79; European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §§ 51-67; Médecins du Monde - International v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012, §§ 112-117.

in Montenegro, it does not contain any information concerning the protection of lawfully residing foreign workers from expulsion. Therefore, in order to determine whether the situation in law and practice is compatible with the requirements of the Charter, the ECSR asks for specific information on the conditions and the procedure for the expulsion of lawfully residing foreign workers from Montenegro. In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19§8 of the Charter as soon as possible.

Article 19§9

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire.

This provision obliges States Parties not to place excessive restrictions on the right of migrants to transfer earnings and savings, either during their stay or when they leave their host country.¹²³ The right to transfer earnings and savings includes the right to transfer movable property (including money).¹²⁴

The ECSR recalls its previous positive assessment with regard to this provision, subject to further information (First report on non-accepted provisions 2015). The ECSR takes note of the information provided by the Government, namely that the regulatory framework under the jurisdiction of the Central Bank of Montenegro does not set any restrictions with regard to the transfer of earnings and savings of foreign workers in Montenegro to their home countries. The report further details the steps taken to facilitate the accession of Montenegro to the Single Euro Payments Area (SEPA) scheme. In light of the information provided, the ECSR considers that the situation in respect of Article 19§9 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

¹²³ Conclusions XIII-1 (1993), Greece.

¹²⁴ Conclusions 2011, Statement of Interpretation on Article 19§9.

Article 19§10

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

Under this provision, States Parties must extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families.¹²⁵

States Parties must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice, between wage-earners and self-employed migrants.¹²⁶ Equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.¹²⁷

A finding of non-conformity with regard to any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under Article 19§10, because the same grounds for non-conformity also apply to self-employed workers. Such finding of non-conformity prevents discrimination or difference in treatment.¹²⁸

The ECSR recalls its previous positive assessment with regard to this provision, subject to further information (First report on non-accepted provisions 2015). The ECSR notes the information provided in the Government's report. Specifically, the Labour Law applies to self-employed persons without discrimination, and the 2022 amendments to the Law on Foreigners introduced the regulation of stay for persons who are employed or perform work electronically for a foreign business or their own company not registered in Montenegro ("digital nomad residence").

However, the report does not contain any other information concerning the rights of self-employed migrants under Article 19. In light of this, as well as the fact that the ECSR was not able to assess the situation under several paragraphs of Article 19 due to the lack of information, the ECSR considers that further information concerning the access of self-employed persons to the rights guaranteed under Article 19 is necessary in order to determine whether the situation in law and practice is compatible with the requirements of the Charter. In the meantime, the ECSR encourages the Government to continue its efforts and consider accepting Article 19§10 of the Charter as soon as possible.

Article 21 - The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a) to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and***

¹²⁵ Conclusions I (1969), Norway.

¹²⁶ Conclusions 2002, France.

¹²⁷ Conclusions XVIII-1 (2006) Luxembourg.

¹²⁸ Conclusions 2019, Albania.

- b) to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.***

Situation in Montenegro

The report refers to Article 192 of the Labour Law, which obliges employers to regularly inform a trade union or workers' representatives of all matters that affect the position of workers and the operation of the company, including development plans and their impact on workers, planned changes in wage policy, business results, as well as detailed data about employees, their employment status, working hours, and qualification structure.

The employer must provide information on the total calculated gross and paid net wages, including contributions for mandatory social insurance, and on the amount of the average wage. The obligation to provide information also covers overtime work, recorded workplace injuries, and measures for improving working conditions. In addition, the employer informs the union about the general acts of the employer, occupational health and safety measures, the introduction of new technology and organizational changes, work schedule, night and overtime work, the adoption of measures under relevant legal provisions, and about the time and method of salary payment.

The employer is obliged to provide the trade union with the necessary documents and notify them about company body meetings at least eight days in advance. Trade union representatives, workers or their representatives (if there is no union), have the right to participate in discussions before the employer's competent bodies when matters concerning the material and social position of workers are discussed.

Pursuant to Article 193 of the Labour Law, the employer must request and consider the opinions and proposals of the trade union before making decisions that have a significant impact on the professional and economic interests of workers, such as collective redundancy or job classification. In such situations, the employer must, in a timely manner, and no later than five days before the relevant meeting, inform the trade union representatives at the appropriate level, to enable their presence and active participation in the consideration of submitted opinions and proposals, as well as in the adoption of important decisions. The trade union has the right to initiate legal proceedings for the protection of the labour rights of its members.

According to Article 209 of the Labour Law, a legal entity shall be fined between €1,000 and €10,000 for a misdemeanour in case it fails to:

- inform the trade union or employee representatives once a year about the matters prescribed in Article 192, paragraph 1 of this law;
- notify or submit documents to the trade union for attendance at employer body meetings where trade union initiatives and proposals are discussed, within eight days (Article 192, paragraph 3); and
- request and consider the opinion and proposals of the trade union in accordance with Article 193 of this law.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 21 of the Charter guarantees workers and their representatives the right to be informed and consulted within the undertaking, with a view to ensuring effective participation in decisions affecting their working environment and employment interests.

Workers or their recognised representatives must be informed, in a timely and comprehensible manner, about the economic and financial situation of the undertaking. Disclosure may be limited or subject to confidentiality where the release of certain information could be prejudicial to the undertaking. They must also be consulted in good time on proposed decisions that could substantially affect their interests, particularly ones that might have a significant impact on the employment situation in their undertaking.

The right to information and consultation applies to employees and/or their representatives, including trade unions, works councils, staff committees, or health and safety committees, as recognised under national law or practice¹²⁹. Compliance with Article 21 requires that national legislation or practice covers all categories of workers and undertakings, although States may exclude undertakings employing fewer than a certain number of workers, as determined nationally. The thresholds established by Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 – undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state – are in conformity with this provision.¹³⁰ Article 21 is not applicable to public servants.¹³¹

In order to ensure effective enforcement, States must establish supervisory mechanisms, such as a labour inspectorate, empowered to impose sanctions for non-compliance¹³². Administrative and judicial remedies must be available to workers and their representatives, including the legal capacity to initiate proceedings against employers and to appeal decisions before a court.¹³³ Effective, proportionate, and dissuasive sanctions must be in place for employers who fail to comply with their obligations under Article 21.¹³⁴

The ECSR recalls its previous positive assessment concerning this provision (First report on non-accepted provisions 2015).

On the basis of the information provided in the report of the Government, the ECSR considers that the situation in respect of Article 21 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

Article 22 - The right to participate in the improvement of working conditions

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a) to the determination and the improvement of the working conditions, work organization and working environment;***
- b) to the protection of health and safety within the undertaking;***
- c) to the organisation of social and socio-cultural services and facilities within the undertaking;***
- d) to the supervision of the observance of regulations on these matters.***

¹²⁹ Conclusions 2010, Belgium.

¹³⁰ Conclusions XIX-3 (2010), Croatia.

¹³¹ European Council of Police Trade Unions (CESP) v. Portugal, Complaint No. 40/2007, decision on the merits of 23 September 2008, §42.

¹³² Conclusions 2018, Republic of Moldova.

¹³³ Conclusions 2018, Ukraine; Conclusions 2003, Romania.

¹³⁴ Conclusions 2005, Lithuania.

Situation in Montenegro

The report refers to Article 191 of the Labour Law, which concerns an employer's obligation to provide the trade union with the conditions necessary for the efficient performance of its activities. Further, it recalls the employer's obligations to inform and consult workers and their representatives under Articles 192 and 193 of this law, referred to under the previous provision.

According to the Law on Occupational Safety and Health, during the planning and introduction of new technologies, the employer is obliged to consult the workers or their representatives for health and safety at work regarding the choice of work equipment, working conditions, working environment, and their consequences for health and safety at work.

Article 23 of this law imposes on the employer an obligation to inform the workers or their representatives in writing with regard to risks related to health and safety at work, prevention, protection and health measures, and activities related to each type of workplace and/or job. Moreover, workers or their representatives should be informed about the method of organizing and providing first aid, fire protection, evacuation procedures in case of serious and immediate dangers, and the persons responsible for implementing these measures.

Employers are obliged to adequately inform other employers whose employees they hired to work for them on any grounds about the aforementioned issues, and the persons responsible for their implementation.

Furthermore, employers have an obligation to inform workers' representatives about the rights and obligations related to health and safety at work and allow them access to:

- risk assessment, prevention, and occupational health and safety measures, including the risks faced by a group of employees who are exposed to a particular risk;
- decisions on occupational health and safety measures to be taken, and, if necessary, on personal protective equipment used;
- records and reports of workplace injuries resulting in the employee's absence from work for more than three working days;
- reports on workplace injuries;
- data arising from measures and actions of inspection and other bodies responsible for occupational safety and health (Article 23).

A workers' representative is a person designated by the workers to represent them in matters related to health and safety at work, as well as cooperation and consultation with workers, workers' representatives, and the trade union.

Pursuant to Article 24 of the Law on Occupational Safety and Health, the employer, workers, workers' representative, and the trade union shall cooperate and consult in the process of determining their rights, obligations, and responsibilities related to health and safety at work in accordance with this law, particularly in relation to any measure that may significantly affect health and safety at work; appointing an expert for health and safety at work, designating persons for implementing first aid, fire protection and evacuation measures, and activities related to health and safety at work; measures and actions of inspection and other bodies responsible for health and safety at work; engaging a legal entity or entrepreneur to perform professional tasks; planning and organizing employee training and competence checks, as well as the issues enumerated above under Article 23.

The employer is obliged to allow the workers' representative and the trade union to submit their remarks regarding occupational safety and health to the competent inspector during inspection supervision.

Opinion of the European Committee of Social Rights

Article 22 of the Revised Charter applies to both private and public undertakings,¹³⁵ including state-owned enterprises, but does not generally cover public employees as a whole.¹³⁶ States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice and tendency undertakings.¹³⁷

Workers have the right to participate in determining and improving their working conditions and working environment within the undertaking. To ensure the effective exercise of this right, States Parties must adopt or encourage measures enabling workers or their representatives, in line with national legislation and practice, to contribute to:

- the determination and improvement of working conditions, work organisation, and the working environment;
- the protection of health and safety at work;
- the organisation of social and socio-cultural services and facilities within the undertaking;
- the supervision of compliance with relevant regulations.

Regarding health and safety, workers and/or their representatives must have an effective right to participate in decision-making and in monitoring compliance with health and safety regulations.¹³⁸

The right of workers' representatives to consultation at the enterprise level in matters of health and safety at the workplace is equally dealt with by Article 3 of the Revised Charter. For the States Parties who have accepted Articles 3 and 22, this issue is examined only under Article 22.

The right to take part in the organisation of social and socio-cultural services and facilities only applies in undertakings where such services and facilities are planned or have already been established.¹³⁹ Article 22 of the Revised Charter does not require that employers offer social and socio-cultural services and facilities to their employees but requires that workers may participate in their organisation, where such services and facilities have been established.¹⁴⁰

Workers must have access to effective legal remedies when their rights under Article 22 are not respected,¹⁴¹ and employers must be subject to sanctions if they fail to comply with their obligations under this provision.¹⁴²

The ECSR recalls its previous positive assessment concerning this provision (First report on non-accepted provisions 2015).

On the basis of the information provided in the Government's report, the ECSR considers that the situation in respect of Article 22 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately.

¹³⁵ Conclusions 2018, Latvia.

¹³⁶ European Council of Police Trade Unions (CESP) v. Portugal, Complaint No. 60/2010, decision on the merits of 17 October 2011, §36.

¹³⁷ Conclusions 2018, Latvia.

¹³⁸ Conclusions 2018, Latvia.

¹³⁹ Conclusions 2018, Latvia.

¹⁴⁰ Conclusions 2018, Latvia; Conclusions 2007, Italy.

¹⁴¹ Conclusions 2018, Cyprus, referring to Conclusions 2003, Bulgaria and Slovenia.

¹⁴² Conclusions 2018, Cyprus.

Article 25 - The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection

Situation in Montenegro

According to Article 111 of the Labour Law, the right to payment of outstanding claims against an employer who is subject to a bankruptcy procedure shall be granted to workers who had been employed on the date of the initiation of the bankruptcy proceedings, as well as to workers whose employment ended within the six months prior to the opening of the bankruptcy proceedings and whose claims were established in accordance with the law regulating bankruptcy proceedings. In case the claims have not been paid or have been partially paid in accordance with the law regulating bankruptcy proceedings, workers can exercise their rights in accordance with the Labour Law and are entitled to the difference up to the level of rights determined in accordance with the Labour Law in case of partial payment.

The worker shall be entitled to the payment of the following in accordance with Article 112:

- 1) Salary and salary compensation for the period of absence from work due to temporary inability to work in accordance with the regulations on health insurance, which the employer was obliged to pay in accordance with the Labour Law, as well as contributions for mandatory pension and disability insurance for those claims under the regulations on mandatory pension and disability insurance, for a period of six months prior to the opening of bankruptcy proceedings;
- 2) compensation of damage for unused annual leave due to the employer's fault, for the calendar year when the bankruptcy proceedings are initiated, if the worker had that right prior to the initiation of the bankruptcy proceedings;
- 3) severance pay due to retirement;
- 4) compensation for damage on the basis of a court decision due to a workplace injury or an occupational disease.

The abovementioned claims are paid by the Labour Fund, regardless of the completion of the bankruptcy proceedings. These rights do not cover directors and members of the employer's management body, regardless of when they fulfilled these functions.

The salary and salary compensation shall be paid in the amount of the minimum wage or compensation of damage for unused annual leave. Severance pay due to retirement is paid in the amount of two minimum wages in Montenegro (Article 113).

When bankruptcy proceedings have been initiated against the employer and the employee's claims have been established in accordance with the law regulating bankruptcy proceedings, contributions for pension and disability insurance for the years of service missing for pension eligibility, for which the employer failed to pay contributions, shall be paid by the Labour Fund, regardless of the completion of the bankruptcy procedure. This right can be exercised by a person who, by the time of submitting a request to the Labour Fund, has met one of the legal requirements for exercising the right to a pension. Exceptionally, for a person who has met one of the legal requirements before submitting the request, the Labour Fund is obliged to pay contributions, regardless of the completion of the bankruptcy procedure (Article 114).

These rights do not cover directors and members of the employer's management body, regardless of when they fulfilled these functions.

The Labour Fund is obliged to pay contributions for supplementary pension and disability insurance, including contributions for a family pension, to an employee of an employer against whom bankruptcy proceedings have been initiated and whose claims have been established in accordance with the law regulating bankruptcy proceedings, as well as to an employee who had previously been employed by that employer (Article 115).

The Labour Fund of Montenegro, established by the Government of Montenegro ("Official Gazette of Montenegro", No. 80/2020), has the status of a legal entity and represents a state fund with a clearly defined scope of work. Its primary function is to ensure the payment of unpaid claims of workers against employers in bankruptcy proceedings, if such claims have not been fully or partially settled. The Fund conducts the procedure and makes decisions on the exercise of workers' rights to the payment of these claims in accordance with the Labour Law and other relevant regulations, while providing professional assistance to workers in the exercise of their rights. The management of the Fund's resources, intended for these purposes, is organized through annual work programs, including goals, activities, and performance indicators, and the Fund submits an annual report to the Government on its work, financial situation, and measures taken to improve the situation. The Fund's work is public, and it is managed by a nine-member Management Board appointed and dismissed by the Government of Montenegro for a mandate of four years. The Board includes representatives of trade unions, workers' associations and the employees of the Fund.

Opinion of the European Committee of Social Rights

The ECSR recalls that Article 25 of the Charter guarantees individuals the right to protection of their employment-related claims in the event of their employer's insolvency¹⁴³.

The concept of insolvency covers not only situations where formal insolvency proceedings have been opened, but also cases where an employer's assets are insufficient to justify opening formal proceedings, including situations where an enterprise closes down without being formally declared insolvent.¹⁴⁴

Worker's claims must be guaranteed by a guarantee institution or by any other effective form of protection.¹⁴⁵ States Parties benefit from a margin of discretion as to the form of protection of worker's claims.¹⁴⁶

States may cap protection at a socially acceptable level,¹⁴⁷ with three times the employee's average monthly wage considered acceptable.¹⁴⁸

Workers' claims must take precedence over other creditors both in formal bankruptcy proceedings and where no formal insolvency is declared.¹⁴⁹ Protection must remain effective even where the

¹⁴³ Conclusions 2003, France.

¹⁴⁴ Conclusions 2012, Statement of Interpretation Article 25.

¹⁴⁵ Conclusions 2012, Statement of Interpretation Article 25.

¹⁴⁶ Conclusions 2003, France.

¹⁴⁷ Conclusions 2012, Ireland.

¹⁴⁸ Conclusions 2012, Slovak Republic, citing Conclusions 2005, Estonia.

¹⁴⁹ Conclusions 2012, Albania.

employer has no assets.¹⁵⁰ A privilege system alone is insufficient to meet Article 25 requirements where there are no assets to distribute.¹⁵¹

States must demonstrate the practical effectiveness of protection by providing data on the average time between lodging a claim and payment, and on the overall proportion of workers' claims which are satisfied by the guarantee institution.¹⁵²

Only in exceptional cases, and due to the special nature of the employment relationship, may certain categories of workers be excluded.¹⁵³ Such exclusions are strictly scrutinised by the ECSR. Part-time workers, fixed term or temporary workers, and workers with less than one year of service may not be excluded.¹⁵⁴

The ECSR takes note of the information provided in the report of the Government. Furthermore, it recalls its previous positive assessment concerning this provision, as well as the outstanding questions highlighted at that time. Namely, the ECSR stressed the need for further information concerning the procedure in cases where the employer has no assets/no formal bankruptcy proceedings have been initiated, as well as concerning average times, in practice, for the settlement of claims. (First report on non-accepted provisions 2015).

Based on the Government's report, it appears that workers' access to the Labour Fund is conditioned on the initiation of bankruptcy proceedings against the employer. Therefore, the ECSR considers that further information is needed as regards the procedure, if any, for payment of claims in cases where no bankruptcy proceedings have been initiated against the employer or where the employer has no assets. Information is also needed with regard to the average times, in practice, for the settlement of claims. In the meantime, the ECSR encourages the Government to pursue its efforts and to consider accepting Article 25 of the Charter as soon as possible.

Article 26§2 - The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations: [...]

2.to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Situation in Montenegro

The report refers to the Law on the Prohibition of Harassment at Work ("Official Gazette of Montenegro", Nos. 30/2012, 54/2016, and 84/2024 – second law), which prohibits all forms of harassment ("mobbing"), as well as abuse of the right to protection against harassment. Harassment is defined as any active or passive behaviour at work or in connection with work that is repeated and

¹⁵⁰ Conclusions 2003, France.

¹⁵¹ Conclusions 2012, Statement of Interpretation Article 25.

¹⁵² Conclusions 2012, Ireland.

¹⁵³ Conclusions 2008, Statement of Interpretation Article 25.

¹⁵⁴ Conclusions 2008 and 2012 (Türkiye), Statement of interpretation on Article 25.

aimed at or results in a violation of the dignity, reputation, personal and professional integrity of the worker. Such behaviour may cause fear, create a hostile, humiliating or offensive working environment, worsen working conditions, or lead the worker to isolation or to voluntarily terminate the employment contract. Harassment includes inciting or encouraging others to engage in such behaviour.

The perpetrator of harassment may be the employer as a natural person, the responsible person in a legal entity, an employee or group of employees, as well as a third party with whom the employee or employer comes into contact during work. The Law on the Prohibition of Harassment at Work applies to all employers and employees, as well as persons engaged outside an employment relationship, such as interns, pupils and students in practice, volunteers and persons performing certain tasks during a prison sentence or educational measure.

The employer, within the meaning of this law, includes state authorities, state administration bodies, bodies and services of local self-government, public institutions, business entities, as well as domestic or foreign legal and natural persons. Supervision over the implementation of the Law on the Prohibition of Harassment at Work is carried out by the Labour Inspectorate.

Montenegro has ratified ILO Convention No. 190 on Violence and Harassment at Work, which will enter into force on 27 February 2026. Moreover, the Decent Work Programme (2024–2027) concluded between the Government of Montenegro, the Union of Employers of Montenegro, the Union of Free Trade Unions of Montenegro, and the Confederation of Trade Unions of Montenegro, foresees as one of its priorities the “improved working conditions for all workers in Montenegro.” The establishment of new mechanisms for combating violence and harassment in the world of work and promoting gender equality in the workplace is one of the expected outcomes of this priority.

The goal of these measures is for the International Labour Organization (ILO) to assist tripartite constituents in conducting gender-neutral job evaluations and to provide practical training for labour inspection, the judiciary, and all other public institutions responsible for gender equality. Other envisaged measures include the launching of campaigns to address gender stereotypes and horizontal segregation, and the distribution of information on the content and application of the law, which will enable constituents and labour inspectors to be trained and equipped to monitor and combat cases of violence and harassment in the world of work, leading to a reduction of these phenomena and increased integration of women in workplaces free from violence and harassment.

Opinion of the European Committee of Social Rights

The ECSR recalls that, under Article 26§2 of the Charter, States Parties are required to take all necessary preventive and compensatory measures to protect individual workers against recurrent reprehensible or distinctly negative and offensive actions directed against them at the workplace or in relation to their work, and to combat moral harassment.¹⁵⁵

While States Parties have no obligation to enact legislation relating specifically to harassment, they must ensure an adequate legal protection of employees against distinctly negative and offensive actions or conduct at work. This protection shall include the right to challenge the offensive behaviour

¹⁵⁵ Conclusions 2003, Bulgaria.

before an independent body, the right to obtain adequate compensation and the right not to be discriminated for having pursued the respect of these rights.¹⁵⁶

Article 26§2 imposes a positive obligation on States Parties to take appropriate preventive measures (information, awareness-raising and prevention campaigns) in order to combat moral harassment,¹⁵⁷ and failure to take any preventive measures may amount to a violation of Article 26§2.¹⁵⁸

It must be possible for employers to be held liable in case of harassment involving employees under their responsibility, or on premises under their responsibility, when a person not employed by them is the victim or the perpetrator.¹⁵⁹

Victims of harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage. These remedies must allow for appropriate compensation of a sufficient amount to make good the victim's pecuniary and non-pecuniary damage and act as a deterrent to the employer. In addition, the persons concerned must have a right to be reinstated in their post when they have been unfairly dismissed or pressured to resign for reasons linked to moral harassment.¹⁶⁰

The ECSR takes note of the information provided by the Government. Additionally, the ECSR notes that the Law on the Prohibition of Harassment provides that employers with 30 or more employees have a duty to designate one or more persons to mediate between the parties in case of harassment, after obtaining the opinion of a representative trade union or workers' representative. When the number of employees is less than 30, such a person shall be designated through agreement between the parties. An employer shall be liable for the damage that a responsible person, an employee or group of employees causes to another employee. The law outlines the procedure for submitting a complaint to the mediator(s), as well as the procedure to be followed when submitting the case to the Agency for the Peaceful Resolution of Work-Related Disputes or a court, following the mediation procedure. The law further provides for fines that can be imposed on the employer by the labour inspection, in case of violations of the law, including the failure to implement preventive measures and to provide relevant information to the employees.

The ECSR welcomes the ratification by Montenegro of ILO Convention No. 190 on Violence and Harassment at Work. In the light of the information provided in the Government's report, and recalling its previous positive assessment, the ECSR considers that the situation in respect of Article 26§2 is compatible with the requirements of this provision of the Charter, which could therefore be accepted immediately. The ECSR recalls that Montenegro has already accepted paragraph 1 of Article 26 which contains the same requirements as paragraph 2, only in relation to sexual harassment.

¹⁵⁶ Conclusions 2005, Republic of Moldova.

¹⁵⁷ Conclusions 2014, Azerbaijan; Conclusions 2005, Republic of Moldova.

¹⁵⁸ Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No 91/2013, decision on the merits of 12 October 2015, §295.

¹⁵⁹ Conclusions 2014, Finland.

¹⁶⁰ Conclusions 2014, Azerbaijan.

Article 27§1 – The right of workers with family responsibilities to equal opportunities and equal treatment

Article 27§1(b)

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to take account of their needs in terms of conditions of employment and social security

Situation in Montenegro

The report states that, under the Labour Law, an employer may not refuse to conclude an employment contract with a woman due to pregnancy, nor may they modify an existing employment contract under less favourable conditions due to pregnancy, childbirth or breastfeeding. Moreover, the employer may not condition employment on a proof of pregnancy, unless the job involves a significant risk to the health of the woman and the child, as determined by the competent health authority. The employer may not request or have others request any information about the pregnancy, unless the worker herself is claiming a right provided by law or another regulation. Pregnant workers are entitled to one day off with pay per month for parental examinations, unless otherwise provided by special regulation.

The employer may not terminate the employment contract of a pregnant worker or a worker who is on maternity, parental, adoption, or foster care leave. A pregnant worker's employment can be terminated only due to a serious breach of work duties in situations stipulated in the law. A worker whose fixed-term contract expires during pregnancy, temporary incapacity for work due to pregnancy, or maternity/parental leave, shall have their contract extended until the end of the leave period. Such workers, as well as workers whose contract expires during parental, adoption or foster care leave, may not be declared redundant by the employer.

Based on a finding and recommendation of a competent medical doctor, a pregnant worker or one who is breastfeeding, who works in a position that may endanger her life or health, or the life and health of the child or unborn child, must be offered a temporary reassignment to another suitable position, retaining all previously held employment rights. If the employer is unable to reassign the worker, the worker is entitled to leave with pay, in accordance with the collective agreement, which cannot be lower than the amount she would earn at her regular workplace.

Night work and overtime are prohibited for pregnant workers and for those who have recently given birth, are breastfeeding or who have a child under the age of three. A woman with a child over the age of two may work at night only with her written consent. One of the parents, adoptive parents, guardians, or foster parents of a child with developmental difficulties or a single parent with a child under seven years of age may work overtime or at night only based on written consent.

A female worker is entitled to mandatory maternity leave of 98 days. Exceptionally, in the case of the birth of two or more children, both parents may simultaneously use maternity/parental leave for a period of 70 days from the birth of the children. The law also stipulates the conditions under which parental leave may be taken by the father from the birth of the child (e.g. in case of death of the mother), and that maternity leave can be extended if the child is born prematurely. Each parent is entitled to parental leave, following the period of maternity leave, for an overall period of 365 days.

Upon return to work from maternity leave, a worker is entitled to a two-hour a day paid breastfeeding break, until the child turns one. During maternity, parental, adoption, and foster care leave, a worker

retains all employment rights held prior to the start of leave, including the right to improved working conditions. They are also entitled to salary compensation not lower than that granted for temporary incapacity for work due to pregnancy. Following the leave period, the worker must be able to return to the same or equivalent position with the same pay. Taking into account the worker's needs and the work process, the employer may allow a change in working hours or schedule. The law provides for extended leave for mothers in case of stillbirth or death of the child.

After leave, parents, adoptive parents and foster parents of children up to the age of three, as well as parents of children with developmental difficulties or severe disabilities, are entitled to half-time work which is counted as full-time work for the purpose of all employment-related rights. Adoptive and foster parents of children under eight may take one year of continuous leave with pay. During periods when such rights are exercised the worker is covered by health and pension-disability insurance, paid from public funds.

The proposed Law on Amendments to the Labour Law of Montenegro seeks to transpose Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. The goal of these amendments is to create a work environment that respects the needs of workers in their private lives, promoting balance between professional obligations and private responsibilities. Furthermore, the legislative changes are aimed at encouraging a more equal distribution of childcare responsibilities between women and men, fostering early emotional bonding between children and fathers. To this end, the amendments prescribe 10 working days of leave for fathers due to the birth of a child. Moreover, the amendments prescribe a minimum period of parental leave of two months that cannot be transferred from one parent to the other, in order to encourage fathers to use parental leave. Only 331 fathers exercised their right to parental leave in 2023. At the same time, this measure will facilitate the reintegration of mothers into the labour market. Additionally, to encourage parents and carers to remain in the labour market, they will be given the right to request flexible working hours, reduced working hours, or work from home, tailored to their needs.

Opinion of the European Committee of Social Rights

The ECSR recalls that the aim of Article 27§1(b) is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.¹⁶¹

Measures need to be taken concerning the length and organisation of working time. Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.¹⁶² These measures should apply equally to men and women.¹⁶³

The type of measures to be taken cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).¹⁶⁴

Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.¹⁶⁵

¹⁶¹ Conclusions 2005, Statement of Interpretation on Article 27§1b, see e.g. Conclusions 2005, Estonia.

¹⁶² Conclusions 2005, Statement of Interpretation on Article 27§1b, see e.g. Conclusions 2005, Estonia.

¹⁶³ Conclusions 2005, Lithuania.

¹⁶⁴ Conclusions 2019, Belgium.

¹⁶⁵ Conclusions 2003, Sweden.

In the light of the information provided by the Government, the ECSR considers that the overall legal framework in Montenegro is compatible with the requirements of Article 27§1(b) of the Charter, which could therefore be accepted immediately.

Article 27§1(c)

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to develop or promote services, public or private, in particular child daycare services and other childcare arrangements.

Situation in Montenegro

The report states that there are 18 service providers who offer day care for children and youth with developmental difficulties in 16 municipalities (17 are public institutions). The funding for the day care services is fully covered by the state and local governments.

Electronic enrolment of children in public and private preschool institutions (www.upisi.edu.me) is provided in May of every year, for the following school year, in order to simplify the enrolment procedure for parents and guardians.

The report further states that the Ministry of Education, Science and Innovation continues to work on raising awareness of the importance of preschool education and to pursue the goal of including children in preschool education as much as possible by organizing enrolment campaigns, especially for children of vulnerable categories. The Ministry is also actively working to solve the problem of overbooking of kindergartens, especially in Podgorica and on the coast, as well as to create better conditions in the institutions through the upcoming purchase of new furniture.

There are 24 public and 35 private preschool institutions in Montenegro. During the past year, nine new educational units were opened. As a rule, interactive services are organized at institutions that cover remote rural areas. These include home visits to families and children, or in organized points in remote rural areas, the provision of instructions to parents, and the promotion and implementation of programmes and activities related to child development. Interactive services exist within thirteen public preschool institutions, and they make up a network of 28 points.

Kindergarten is free of charge for children whose parents are beneficiaries of financial family support, children from the most vulnerable population groups, and children without parental care. The costs of accommodation and food, i.e. the accommodation of a child of a single parent, are paid by the single parent in the amount of 50% of the cost of accommodation and food.

The Growth Plan envisages the building of new educational units in the period until 2027 to provide 1,800 new places for children in preschool institutions, with the aim of facilitating greater involvement of women in the labour market, especially those who are not actively working due to having to care for children, the elderly or persons with disabilities. In addition, it is planned to hire 300 new qualified childcare personnel. The number of children enrolled in preschool education increased in the 2024/2025 school year.

The Education Reform Strategy 2025-2035, which was sent to the General Secretariat of the Government for its opinion, is designed to help Montenegro meet the criteria for EU accession and solve the key challenges identified in the Progress Report of Montenegro from 2023. The emphasis

is on the construction of new preschool institutions, the provision of qualified personnel, and the availability of quality programs.

Opinion of the European Committee on Social Rights

The aim of Article 27§1(c) is to develop or promote services, in particular child day care services and other childcare arrangements, that are available and accessible to workers with family responsibilities.¹⁶⁶ Services should be affordable and of high standard (quality being assessed on the basis of the number of children under the age of six covered, staff to child ratios, staff qualifications, suitability of the premises and the amount of the financial contribution parents are asked to make).¹⁶⁷ Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.¹⁶⁸

Where a State has accepted Article 16, measures taken to develop and promote child daycare structures are dealt with under that provision.¹⁶⁹

In the light of the information provided by the Government, the ECSR acknowledges the efforts undertaken by Montenegro to ensure that childcare facilities are available, affordable and of good quality. The ECSR further notes that, since Montenegro has accepted Article 16, it is already bound by the obligations concerning the development and promotion of child-care arrangements under that provision. The ECSR encourages Montenegro to pursue these efforts and considers that Article 27§1(c) could be accepted immediately.

Article 29 – The right to information and consultation in collective redundancy procedures

The ECSR notes that the Report contains information on the implementation of Article 29. It recalls that Montenegro already accepted Article 29 of the Charter when it ratified the revised Social Charter in 2010 and has been found in conformity with this provision (see [Conclusions 2022](#)).

Article 30 – The right to protection against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary.

Situation in Montenegro

The report states that the Labour Law was amended twice in 2021 ("Official Gazette of Montenegro", Nos. 59/21 and 145/21), first setting the net minimum wage at €250 (effective from 1 October 2021)

¹⁶⁶ Conclusions 2005, Estonia, Conclusions 2023, Armenia.

¹⁶⁷ Conclusions 2015, Azerbaijan.

¹⁶⁸ Conclusions 2019, Armenia.

¹⁶⁹ Conclusions 2003, Italy; Conclusions 2023, Türkiye

and later increasing the minimum wage to €450 (effective as of 1 January 2022). Furthermore, this law stipulates that the minimum net wage may not be lower than €600 for employees in positions up to qualification level V, or €800 for employees with qualification level VI and above. The amount of the minimum wage is determined by the Government upon the proposal of the Social Council, based on the general wage level in the country, cost of living and its changes, and economic factors such as the demands of economic development, productivity levels, and the need for high employment. The new amendments abolished health insurance contributions at the employer's expense, which created conditions for increased general employment. The average net wage in April (2025) was €1,009.

The Employment Agency of Montenegro provides support to persons who are in a disadvantaged position on the labour market, due to discrimination or other factors such as a low level of education. The participation of such persons in the programmes of the active employment policy was as follows in 2024: women (60.48%), persons in long-term unemployment (46.88%), young people (27.45%), persons with disabilities (3.08%), beneficiaries of material support ("*materijalno obezbjeđenje*") (4.13%), members of the Roma and Egyptian population (1.78%). Moreover, 66.64% of unemployed persons from the municipalities of the Northern region, economically the least developed in Montenegro, participate in active employment policy measures.

Furthermore, the Employment Agency and social welfare centres cooperate to provide support to unemployed persons who use social protection. This cooperation is defined by the Law on Child and Social Protection and the Rulebook on the form of individual activation plan and the way of implementing social inclusion measures for beneficiaries of material support who are able to work. An agreement between the Employment Agency of Montenegro and centres for social work, concluded in 2017, aims to promote an inter-institutional approach in working with groups that are in a disadvantageous position on the labour market and to improve the position of vulnerable groups of unemployed persons in their activation through the offer of integrated services from both systems.

In 2024, this cooperation was realised through the provision of information, counselling and motivational services for inclusion in active employment policy programmes and/or employment mediation. Of the total number of persons included in the measures of the active employment policy in 2024, 4.13% were beneficiaries of material support (51 persons). Twenty-five persons were involved in education training programmes, ten persons in the training programme for working for an employer, three persons in the training programme for independent work, five persons in the incentive programme for self-employment, and eight persons in direct opening of jobs – public work. Professional rehabilitation measures cover 3% of the beneficiaries of material support, in relation to the total number of persons involved. In 2024, 308 beneficiaries of material support, 183 of whom are women, were employed through the employment mediation service.

In accordance with the Law on Social and Child Protection and its by-laws, there are 14 types of material benefits, of which only material support and child allowance for children of support recipients are targeted at the poor, while conditions for other material benefits are based on health or other factors, not on income or property. The basic material benefits are: material support, personal disability allowance, care and assistance allowance, health care, funeral expenses, one-time financial assistance, and compensation for the parent or guardian of the beneficiary of the right to a personal disability allowance.

Basic material allowances in childcare comprise: compensation for a newborn child; allowance for children; food costs in preschool institutions; assistance for the upbringing and education of children and young people with special educational needs; reimbursement of salary compensation and salary

compensation for maternity or parental leave; compensation based on the birth of a child; reimbursement of wages and wages for half-time work.

The report further states that the social and child protection services are classified into four groups: support for community life (daycare, home help, supported housing, drop-in centre, personal assistance, interpretation and translation into sign language and other support services for community life); counselling-therapeutic and social-educational services (counselling, therapy, mediation, SOS telephone and other services aimed at overcoming crisis situations and improving family relations); accommodation (family accommodation–foster care, accommodation in an institution, shelter, and in other types of accommodation); urgent interventions.

The report states that it is necessary to strengthen cooperation with the employment sector and other sectors in the activation of able-bodied users of material support. Two-thirds of beneficiaries are assessed as capable of working but they remain unemployed over a long period because there is a lack of support in solving their obstacles to employment. In the following period, it is necessary to consider stimulating activation and employment through a gradual reduction of the amount of material support and other rights at the time of inclusion in the measures of the employment policy and other programmes, and acceptance of short-term seasonal jobs. Special attention should be paid to young people from families receiving material support, so that they do not get trapped in a multi-generational poverty trap. The report further refers to the EU social policy and its principles of active inclusion.

Opinion of the European Committee of Social Rights

Article 30 requires States to adopt an overall and coordinated approach, which should consist of an analytical framework,¹⁷⁰ a set of priorities and measures to prevent and remove obstacles to access fundamental social rights, in particular, employment, housing, training, education, culture and social and medical assistance.¹⁷¹ This approach must link and integrate policies in a consistent way, moving beyond a purely sectoral or target group approach.¹⁷²

Adequate resources are one of the main elements of the overall strategy to combat social exclusion and poverty and should therefore be allocated to achieve the objectives of the strategy.¹⁷³

The measures taken should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.¹⁷⁴ They should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights, and where necessary, specifically target the most vulnerable groups and regions.¹⁷⁵

There should be in place monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and social exclusion.¹⁷⁶ The failure to collect reliable data on

¹⁷⁰ Conclusions 2003, Statement of Interpretation on Article 30, see e.g. Conclusions 2003, France.

¹⁷¹ Conclusions 2013, Statement of Interpretation on Article 30.

¹⁷² Statement on Covid-19 and social rights adopted on 24 March 2021.

¹⁷³ Conclusions 2005, Slovenia.

¹⁷⁴ Conclusions 2003, Statement of Interpretation on Article 30, see e.g. Conclusions 2003, France.

¹⁷⁵ Conclusions 2003, Statement of Interpretation on Article 30.

¹⁷⁶ Conclusions 2003, Statement of Interpretation on Article 30, see e.g. Conclusions 2003, France.

disadvantaged or excluded groups constitutes a failure to comply with the requirement of an overall and coordinated approach.¹⁷⁷

When assessing compliance with the Charter, definitions of poverty and social exclusion and measuring methodologies applied at the national level and the main data made available are systematically reviewed.¹⁷⁸ The ECSR also takes into account a set of indicators in order to assess in a more precise way the effectiveness of policies, measures and actions undertaken by States Parties within the framework of this overall and co-ordinated approach.¹⁷⁹ In doing so, it has made clear that its consideration of state practice in terms of Article 30 reflects an understanding of both income and multi-dimensional understandings of poverty.¹⁸⁰

To assess national situations, the ECSR uses the Eurostat at-risk-of-poverty rate (the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income) before and after social transfers as a comparative value.

The ECSR recalls its previous assessment, in which it asked for further clarification of the situation in practice in a range of fields in order to demonstrate that a clear strategy was in place to guarantee effective access to assistance. Given the multidimensional nature of the provisions, the ECSR encouraged the authorities to consult all the relevant institutions. The ECSR also highlighted the close link between Article 30 and other provisions of the Charter which had been accepted by Montenegro, in particular Articles 1, 9, 10, 12, 13 and 14 (First report on non-accepted provisions 2015).

The ECSR takes note of the information provided in the report of the Government and it considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of the Charter. Specifically, it asks for information concerning the development of an overall and coordinated approach aimed at strengthening access to social rights (beyond the cooperation between the Employment Agency and centres for social work), in particular employment, housing, training, education, culture and social and medical assistance. Information should also be provided with regard to the allocated resources and the existence of a monitoring mechanism involving all relevant actors. The ECSR encourages the authorities to consult all the relevant institutions. The ECSR notes that under Article 30 States Parties must demonstrate that they have taken steps to develop and implement measures, as part of an overall and coordinated approach, in order to prevent and remove obstacles to access to fundamental social rights for persons who live or risk living in a situation of social exclusion or poverty. The adoption of a national strategy assessing the relevant needs and identifying measures to be taken, which should be adopted as soon as possible, represents a crucial step towards the fulfilment of obligations under Article 30. The ECSR encourages the Government to pursue its efforts in this regard and to consider accepting Article 30 of the Charter as soon as possible.

¹⁷⁷ International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision of 18 March 2013, §§ 193, 197.

¹⁷⁸ Conclusions 2003, Statement of Interpretation on Article 30, see e.g. Conclusions 2003, France.

¹⁷⁹ Conclusions 2003, Statement of Interpretation on Article 30, Conclusions 2013.

¹⁸⁰ See, e.g., the Committee description of the multidimensional poverty and exclusion phenomena in its Conclusions 2005, Norway and Conclusions 2007, Belgium.

Article 31 The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- 1. to promote access to housing of an adequate standard;***
- 2. to prevent and reduce homelessness with a view to its gradual elimination;***
- 3. to make the price of housing accessible to those without adequate resources.***

Situation in Montenegro

According to the report, improving housing standards and accessibility is one of Montenegro's social development priorities. The Law on Social Housing, which entered into force on 30 July 2013, establishes the legal framework for providing adequate housing standards for all households which face difficulties in accessing decent housing on the market, by enabling them to secure accommodation in appropriate social and urban environments. This law defines social housing as housing of an adequate standard provided to individuals or households who, for social, economic, or other reasons, are unable to solve their housing needs.

The concept of the law is based on defining the basic institutions of social housing, establishing competencies, specifying the individuals entitled to resolve housing issues, defining funding sources, and establishing a legal framework to allow a wide range of participants to be included in the social housing system.

Social housing particularly includes: addressing housing needs of vulnerable and poor social groups; encouraging development of underdeveloped areas through housing offers and improving housing conditions for professionals and other holders of development programmes in underdeveloped areas; reducing poor housing conditions in urban settlements; and increasing the supply of housing units with lower rents compared to market rates.

The Government is obliged to draft and adopt a social housing programme every three years, while local self-government units are to adopt local social housing programmes for a period of one year.

The National Housing Strategy for the period 2011–2020 identified the following priority strategic goals: increasing the availability of housing for households that cannot meet their housing needs on the market; supporting the development of the rental sector, both public and private, while creating the conditions for complete legal certainty in this sector and improving the management and maintenance system of the housing fund. According to the Final Report on its implementation, around 70% of the strategic goals from the Action Plan (2015-2020) to the aforementioned strategy were realized. The main reason why certain goals were not achieved were the lack of institutional capacity and financial resources.

The new draft Strategy of the Housing Policy for the period until 2034 and its Action Plan for 2025-2026, which aims to align Montenegro's policy with EU standards, are pending adoption. The strategy foresees the establishment of the National Housing Fund through the adoption of the Law on Housing Support (to replace the Law on Social Housing), which would build, maintain and lease apartments at affordable prices. This law will also define the way of long-term and sustainable financing of the activities of the National Housing Fund. The law will also prescribe public-private partnership models, incentives for interested investors to build rental apartments with certain concessions and state support, with the aim of creating a sufficient rental fund.

According to the Law on Social and Child Protection, a homeless person is defined as someone who does not have a registered residence address, resides in public or other places not intended for housing, and does not have the means to meet housing needs.

There is a licensed shelter for homeless persons in Risan, which receives users 24 hours a day, seven days a week. The shelter service provider ensures the following for users: accommodation, meals, maintenance of personal hygiene, a safe environment, user empowerment, and other services according to individual needs.

Additionally, NGO Juventas is licensed to operate a drop-in centre for homeless persons, in which services are provided during the five working days, from 8 AM to 4 PM and from 5 PM to 9 PM. The following services are provided at the drop-in centre: one meal per day, hygiene products, mediation in the provision of clothing and footwear, mediation in securing community-based support services and advisory-therapeutic and socio-educational services, and hygiene maintenance of the premises.

In addition to the right to accommodation in a shelter and the drop-in centre services, adult and elderly persons who are homeless may exercise the right to material benefits and social and child protection services in accordance with the Law on Social and Child Protection. The report refers to the support provided by the city of Podgorica.

The report refers to the cooperation between Montenegro and the Council of Europe Development Bank (CEB), which concerned the implementation of the four phases of Project 1000+ (implemented between 2010 and 2022). The project aimed at solving the housing needs of citizens with medium and lower incomes and was realized with the credit support of the CEB in the total amount of €69 million. The project included long-term mortgage loans (with a fixed interest rate of up to 2.99%), incentives to the construction and banking sectors, and the creation of a “bank” claimant group on the housing market. Out of the total of 506 allocated vouchers, 366 (72.3%, 231 women and 135 men) were realized, with the 63.6% rate of implementation among young couples.

Following the implementation of the project, the CEB expressed its willingness to finance the development of the Profile of Montenegro through a grant. In March 2024, CEB authorities approved a grant in the total amount of up to €248,826.00, in order to provide funds for the Technical Assistance to Montenegro in the preparation of the Country Profile. In 2025, Montenegro signed the Grant Agreement with the CEB and the Contribution Agreement with UNECE.

The report also mentions several other projects, namely the project for vulnerable persons in the north of the country, the regional housing project for displaced and internally displaced persons (also with the support of CEB), and a number of projects of housing cooperatives. Furthermore, it refers to the projects of trade union organizations at the level of state institutions (the Union of the Police Administration and later the Union of Security Institutions), and projects of the Union of Associations of Pensioners of Montenegro in cooperation with the Government of Montenegro. A total of 6,561 persons were assisted through these programmes, either through housing loans or the construction of affordable housing.

According to the report, local governments assist vulnerable persons through the provision of free housing or housing at rents below market rates, through public calls and in accordance with the procedure outlined in the Law on Social Housing. Based on the data provided by local governments, there are 2,325 social housing units in Montenegro (although not all local governments maintain such data).

Local governments, within their competencies, also handle social welfare in housing for vulnerable citizens. The Secretariat for Social Welfare of the Capital City provides the following types of support: reimbursement of part of the rental cost (subsidy for tenants), pursuant to the Decision on Social and

Child Protection Rights; allocation of apartments to socially vulnerable persons for rent, under the Decision on Housing Allocation for Socially Vulnerable Persons; and assistance for the homeless – based on findings and opinions of the social work centre.

The “Montenegro fund for solidarity housing construction” Podgorica (CFSSI), a three-member limited-liability company consisting of the Government of Montenegro, the Union of Trade Unions of Montenegro ‘and the Syndicate of *Pivare "Trebjesa"* AD Nikšić, has so far built a total of 2,089 solidarity apartments for employees across Montenegro, in cooperation with investors and local self-governments. The CFSSI is not financed from the budget, but municipal governments support the construction of residential buildings by providing free land and waiving fees related to construction. In exchange, the municipality receives the right to distribute a certain percentage of apartments under the same conditions regarding payments that apply to all investors from the territory of the municipality. The participation of municipalities ranges from 25 to 30%.

In addition to this type of financing, the CFSSI also finances the construction of affordable apartments through agreements with investors and the pooling of funds. Namely, employers-investors pay monthly funds into the account of the CFSSI, and the funds in question are included in the final selling price of a square meter of built residential space. The CFSSI provides the rest of the funds for construction from loans from foreign financial institutions as well as domestic commercial banks. The CFSSI has built a total of 250 apartments in the last five years.

Opinion of the European Committee of Social Rights

Article 31§1

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to promote access to housing of an adequate standard.

The ECSR recalls that under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing. States must take appropriate legal, financial, and operational measures to ensure the practical and effective enjoyment of the right to housing.¹⁸¹ This includes adopting coherent strategies, allocating sufficient resources, maintaining meaningful statistics,¹⁸² regularly reviewing policies,¹⁸³ setting timetables,¹⁸⁴ and paying particular attention to the impact on vulnerable groups.¹⁸⁵

States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources (European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95). On a more technical level, the notion of adequate housing must be defined in law. “Adequate housing” means:

¹⁸¹ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60.

¹⁸² International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60.

¹⁸³ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60.

¹⁸⁴ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60.

¹⁸⁵ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60.

- a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc., and where specific dangers such as the presence of lead or asbestos are under control;¹⁸⁶
- a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;¹⁸⁷
- a dwelling with secure tenure supported by the law (this issue is covered by Article 31§2)¹⁸⁸

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock. It must also be applied to housing available for rent as well as to owner occupied housing.¹⁸⁹

Positive measures in the field of housing must be adopted in respect of persons in vulnerable situations, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems,¹⁹⁰ paying particular attention to the situation of Roma and Travellers.¹⁹¹

Effective implementation requires inspections, enforcement against substandard housing, protection against interruption of essential services, and access to effective legal remedies.¹⁹²

The ECSR recalls its previous report, in which it welcomed the progress made by Montenegro but found that further clarification in law and practice would be required in order to make its assessment under Article 31 (First report on non-accepted provisions 2015). It further reiterates that Montenegro has accepted Article 16 of the Charter which guarantees the right of the family to housing, therefore there is an overlap with Article 31 of the Charter.

The ECSR takes note of the information provided in the Government's report, including in relation to the draft Strategy of the Housing Policy for the period until 2034 and its Action Plan for 2025-2026, as well as the projects aimed at providing housing for persons in vulnerable situations. It considers that further information is necessary to assess whether the situation in law and practice is compatible with the requirements of Article 31§1 of the Charter. Specifically, it asks for clarification whether the law provides for a definition of adequate housing outside of the context of social housing, which is applicable to all housing in Montenegro (existing and new housing stock, including rental properties). Moreover, information is requested with regard to the implementation of the right to adequate housing, especially in relation to inspections, enforcement against substandard housing, protection against interruption of essential services, and access to effective legal remedies. In the meantime, it encourages the Government to pursue its efforts and to consider accepting Article 31§1 of the Charter as soon as possible.

Article 31§2

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to prevent and reduce homelessness with a view to its gradual elimination.

¹⁸⁶ Conclusions 2003, France.

¹⁸⁷ Conclusions 2003, France.

¹⁸⁸ Conclusions 2003, France.

¹⁸⁹ Conclusions 2003, France.

¹⁹⁰ Conclusions 2003, Italy.

¹⁹¹ Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40.

¹⁹² Conclusions 2019, Türkiye, Ukraine; Conclusions 2003, France.

The ECSR recalls that under Article 31§2, States Parties have to take measures to reduce homelessness with a view to gradually eliminating it through the introduction of emergency measures, such as the provision of immediate shelter and through the provisions of services to help the homeless to overcome their difficulties and to prevent them from returning to a situation of homelessness.¹⁹³ This requires States Parties to introduce a housing policy for all disadvantaged groups to ensure access to social housing and housing allowances, (cf. Article 31§3)¹⁹⁴ as well as procedural safeguards to limit the risk of eviction.¹⁹⁵

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.¹⁹⁶ When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned. The law must prohibit evictions carried out at night or during the winter period. When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.¹⁹⁷

Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.¹⁹⁸

The ECSR welcomes the existence of support measures for persons experiencing homelessness, as well as legislative measures and projects aimed at providing affordable housing to vulnerable groups. However, it considers that, in order to assess whether the situation in law and practice is compatible with the requirements of Article 31§2 of the Charter, further information is needed with regard to the legal framework ensuring protection from evictions, as well as access to legal remedies and compensation for persons subject to evictions. The ECSR recalls that protection from evictions is also covered by Article 16 of the Charter, which Montenegro has accepted. In the meantime, it encourages the Government to pursue its efforts and to consider accepting Article 31§2 of the Charter as soon as possible.

Article 31§3

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to make the price of housing accessible to those without adequate resources.

The ECSR recalls that an adequate supply of affordable housing must be ensured for persons with limited resources.¹⁹⁹ States Parties must:

- adopt appropriate measures for the provision of housing, in particular social housing;²⁰⁰ social housing should target, in particular, the most disadvantaged;²⁰¹
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;²⁰²

¹⁹³ Conclusions 2003, Sweden.

¹⁹⁴ Conclusions 2003, Sweden; Conclusions 2005, Lithuania; Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §136.

¹⁹⁵ Conclusions 2005, Lithuania.

¹⁹⁶ Conclusions 2003, Sweden.

¹⁹⁷ Conclusions 2003, Sweden.

¹⁹⁸ Conclusions 2003, Sweden.

¹⁹⁹ Conclusions 2003, Sweden.

²⁰⁰ Conclusions 2003, Sweden.

²⁰¹ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100.

²⁰² International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §131.

- introduce housing benefits at least for low-income and disadvantaged sections of the population.²⁰³ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.²⁰⁴

All the rights thus provided must be guaranteed without discrimination.²⁰⁵

The ECSR takes note of the information provided in the Government's report, namely the legal framework established under the Law on Social Housing and measures envisaged by the draft Strategy of the Housing Policy, as well as various projects which have been implemented with the aim of facilitating access to housing for vulnerable individuals. The ECSR considers that, in order to assess whether the situation in law and practice is compatible with the requirements of Article 31§3 of the Charter, further information is needed with regard to access to housing benefits under the competence of local governments (including the relevant criteria), as well as on average waiting periods for the allocations of social housing. The ECSR recalls that the obligation to provide adequate and affordable housing for families is covered by Article 16 of the Charter, which has been accepted by Montenegro. In the meantime, it encourages the Government to pursue its efforts and to consider accepting Article 31§3 of the Charter as soon as possible.

²⁰³ Conclusions 2003, Sweden; Conclusion 2019 Greece.

²⁰⁴ Conclusions 2003, Sweden.

²⁰⁵ International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149-155; Conclusions 2019, France, Türkiye.

APPENDIX I: Factsheet: the situation of Montenegro with respect to the European Social Charter



— Montenegro and the European Social Charter —

Signatures, ratifications and accepted provisions

Montenegro ratified the Revised European Social Charter on 3 March 2010, accepting 66 of its 98 paragraphs.

It has not accepted the system of collective complaints.

The Charter in domestic law

Automatic incorporation into domestic law.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1*	27.2	27.3	28	29	30	31.1
31.2	31.3						Grey = accepted provisions				

* only subparagraph (a) of Article 27.1 was accepted.

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted a [report concerning Montenegro](#) in 2015.

The Committee considered that there were no legal obstacles to the acceptance of Article 2 §§ 4, 5 and 7; Article 7§10, Article 10 § 5; Article 18 §§ 1, 2, 3 and 4; Article 19§§1, 2, 3, 5, 7, 9 and 10; Article 21, Article 22 and Article 26§2 of the Charter.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ²⁰⁶

I. Reporting system ²⁰⁷

Reports submitted by Montenegro

Between 2010 and 2024, Montenegro has submitted 13 reports on the application of the Revised Charter.

The [12th report](#), which was submitted on 28/04/2023, covers the accepted provisions of the Social Charter relating to thematic group 4 "Children, families and migrants" (Articles 7, 8, 16, 17, 16, 19, 27 and 31).

Conclusions with respect to these provisions have been published in March 2024.

On 25 March 2024, an [ad hoc report on the cost-of-living crisis was submitted by Montenegro](#) ²⁰⁸.

²⁰⁶ The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ». Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

²⁰⁷ Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

²⁰⁸ In accordance with the [decision of the Ministers' Deputies](#) adopted on 27 September 2022 concerning the [new system](#) for the presentation of reports under the European Social Charter, the European Committee of Social Rights and the Governmental Committee have decided to request an *ad hoc* report on the cost-of-living crisis to all State parties.

Situations of non-conformity ²⁰⁹

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2020

► *Article 151 – Right to work – Policy of full employment*

Employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 152 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- Nationals of the other States Parties do not have access to certain jobs, which constitutes a discrimination on grounds of nationality;
- It has not been established that the national authorities have fulfilled their obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

► *Article 154 – Right to work - Vocational guidance, training and rehabilitation*

- It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed and the right to equal treatment of nationals of other Contracting Parties is not guaranteed;
- It has not been established that that the right to vocational training and retraining is guaranteed for all workers;
- It has not been established that the right of persons with disabilities to mainstream training is effectively guaranteed.

► *Article 9 – Right to vocational guidance*

- It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed;
- Equal treatment of all nationals of other contracting parties is not guaranteed.

► *Article 1051 – Right to vocational training - Technical and vocational training; access to higher technical and university education*

It has not been established that the right to vocational education is effectively guaranteed.

► *Article 1053 – Right to vocational training - Vocational training and retraining of adult workers*

It has not been established that that the right to vocational training and retraining is guaranteed for all workers.

► *Article 1054 – Right to vocational training - Long term unemployed persons*

Special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

► *Article 1551 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities*

It has not been established that the right of children with disabilities to mainstream education and training is effectively guaranteed.

► *Article 1552 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

It has not been established that equal access to employment is effectively guaranteed to persons with disabilities.

► *Article 20 – Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex*

²⁰⁹ Further information on the situations of non-conformity is available on the [HUDOC database](#).

Women are not permitted to work in all professions which constitutes discrimination based on sex (during the reference period).

Thematic Group 2 "Health, social security and social protection" - Conclusions 2021

► *Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that levels of prevention and protection required in relation to the establishment, alteration and upkeep of workplaces are in line with the international reference standards.

► *Article 3§3 – Right to safe and healthy working conditions – Enforcement of safety and health regulations*

- It has not been established that accidents at work and occupational diseases are monitored effectively;
- It has not been established that the activities of the labour inspectorate are effective in practice.

► *Article 12§1 – Right to social security – Existence of a social security system*

- The minimum level of unemployment benefit is inadequate;
- The duration of unemployment benefit for the insurance period of up to five years is too short.

► *Article 12§2 - Right to social security - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

It has not been established that Montenegro maintains a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

► *Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need*

- The right to social assistance is not guaranteed to any single person without resources;
- The level of social assistance is manifestly inadequate.

► *Article 13§4 - Right to social and medical assistance - Specific emergency assistance for non-residents*

Not all non-resident foreign nationals lawfully present in the territory in need are entitled to emergency social assistance.

► *Article 23 – Right of elderly persons to social protection*

The level of the minimum old-age pension is inadequate.

Thematic Group 3 "Labour rights" – Conclusions 2022

► *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

It has not been established that adequate remedies are available in the event of dismissal following a claim for equal pay.

► *Article 4§5 – Right to a fair remuneration – Limits to deduction from wages*

It has not been established that workers cannot waive their right to the limitation on deductions from wages.

► *Article 6§4 - Right to bargain collectively - Collective action*

- Only representative trade unions have the right to initiate branch-level or general strikes;
- The range of sectors in which the right to strike may be restricted is too extensive and it has not been established that the restrictions on the right to strike fall within the limits set by Article G of the Charter.

► *Article 26§1 - Right to dignity in the workplace - Sexual harassment*

It has not been established that appropriate and effective redress (compensation and reinstatement) is guaranteed in cases of sexual harassment.

► *Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

It has not been established that:

- workers' representatives other than trade union representatives are effectively protected against prejudicial acts short of dismissal and,
- facilities granted to workers' representatives are adequate.

Thematic Group 4 "Children, families, migrants" – Conclusions 2023

► *Article 7§1 - Right of children and young persons to protection- Prohibition of employment under the age of 15*

- The legislation on the prohibition of employment under the age of 15 is not effectively enforced;
- Work done at home by children under the age of 15 is not monitored.

► *Article 7§3 - Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

The legislation on the prohibition of employment of children subject to compulsory education is not effectively enforced.

► *Article 7§4 - Right of children and young persons to protection – Working time*

Labour inspectors supervising the working time of young workers lack the authority to conduct unannounced inspections.

► *Article 7§9 – Right of children and young persons to protection - Regular medical examination*

Young workers under 18 years of age employed in occupations prescribed by national laws or regulations are not subject to regular medical control.

► *Article 16 – Right of the family to social, legal and economic protection*

Family benefits do not cover a significant number of families.

► *Article 17§1 – Right of children and young persons to social, legal and economic protection – Assistance, education and training*

- the rate of children at risk of poverty is too high;
- children under the age of three can be placed in institutional care;
- children may be detained with adults.

The Committee also considered that the failure to provide requested information on Articles 16, 17§1 and 17§2 amounts to a breach by Montenegro of its reporting obligations under Article C of the Charter.

The Committee has been unable to assess compliance with the following provisions:

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ Article 10§2 - Conclusions 2020
- ▶ Article 15§3 - Conclusions 2020

Thematic Group 2 “Health, social security and social protection”

- ▶ Article 11§1 - Conclusions 2021
- ▶ Article 11§3 - Conclusions 2021
- ▶ Article 12§3 - Conclusions 2021
- ▶ Article 12§4 - Conclusions 2021
- ▶ Article 14§2 - Conclusions 2021

Thematic Group 3 “Labour rights”

- ▶ Article 2§1 - Conclusions 2022
- ▶ Article 5 - Conclusions 2022
- ▶ Article 6§1 - Conclusions 2022

Thematic Group 4 “Children, families, migrants”

-

II. Examples of progress achieved in the implementation of rights under the Charter

(non-exhaustive list)

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ The Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11), as amended in 2011, sets out the arrangements and procedures for applying the right to vocational rehabilitation of persons with disabilities. The amendments made to the Law change the system of employment quotas for persons with disabilities.
- ▶ Exercise of the right to medical and technical aids is governed by the "Regulation on exercising the right to medical and technical aids" (Official Gazette of Montenegro, no. 24/2013 and 26/2014).
- ▶ The Law on Spatial Planning and Construction as amended in 2014 (Official Gazette of Montenegro, no. 51/08, 40/10, 34/11, 35/13, 33/14) provides that public buildings must be accessible.

Thematic Group 2 “Health, social security and social protection”

- ▶ On 25 July 2014, the Parliament of Montenegro adopted the Law on Safety and Health at Work (Official Gazette No. 34/14), which replaces the former Law on Safety and Health at Work (Official Gazette No. 79/04 and 26/10). According to the new law, the employer is obliged to provide measures of safety and health at work to all employees, by preventing, eliminating and controlling risks at work, informing and training employees, and with proper organisation and the necessary means. In addition, the employer is obliged to provide special safety and health at work to women during pregnancy, persons under 18 years of age, and persons with disabilities.
- ▶ During the reference period, Montenegro concluded bilateral social security agreements with Romania and the Slovak Republic.
- ▶ A real-time e-Referral and e-Prescription system was implemented radically reducing waiting times.
- ▶ In 2019, Montenegro adopted the Law on the restriction of the use of tobacco products, which provides, among other measures, for a ban on smoking at work and in public places, with fines for non-compliance ranging from €500 to €20,000.
- ▶ The Law on mediation for job placement and rights during unemployment came into force on 30 April 2019. This law reduced the length of insurance contributions required to be entitled to unemployment benefits. In addition, the amount of unemployment benefits was increased and the duration of benefit payments was extended for some categories of jobseekers.
- ▶ The adjustment of retirement and disability pensions, which had been suspended throughout the previous reference period (2012-2015) due to poor economic conditions, resumed in 2016.

Thematic Group 3 “Labour rights”

- ▶ In 2014, the Government and the social partners signed a general collective agreement (OG No. 14/14 of 22 March 2014), valid for two years. The contracting parties are responsible for overseeing its application. In 2016, an agreement was signed to extend it for two years (OG No. 39/16 of 29 June 2016). According to this new general collective agreement, employees’ wages must be increased by at least 40% per hour of overtime worked.

- ▶ Under the new Labour Law (Official Gazette of Montenegro, No. 74/19, which entered into force on 6 January 2020), the prohibition of harassment and sexual harassment at work and in relation to work now also applies in relation to access to vocational guidance, vocational training and advanced vocational training, promotion at work and termination of employment, as well as to other aspects of employment (Article 10(1) of the Labour Law).

Thematic Group 4 “Children, families, migrants”

- ▶ New Law on Safety and Health Protection at Work was adopted in 2014.
- ▶ Montenegro abolished all forms of corporal punishment in all settings.

Appendix II: Vilnius Declaration



PRESIDENCY OF LITHUANIA
Council of Europe
May – November 2024
PRÉSIDENTE DE LA LITUANIE
Conseil de l'Europe
Mai – Novembre 2024



MINISTRY
OF SOCIAL SECURITY AND LABOUR
REPUBLIC OF LITHUANIA



European
Social
Charter

Charte
sociale
européenne



High-Level Conference on the European Social Charter
“a step by member States to take further commitments under the Charter”
3-4 July 2024, Vilnius, Lithuania

VILNIUS DECLARATION

1. In the Reykjavik Declaration (May 2023), the Heads of State and Government of the Council of Europe confirmed that “[s]ocial justice is crucial for democratic stability and security” and “reaffirm[ed their] full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system”. They proposed the holding of a high-level conference on the European Social Charter (ETS No. 35, (revised) ETS No. 163, “the Charter”) “as a step to take further commitments under the Charter where possible”.

2. At the 133rd Ministerial Session on 17 May 2024, the Committee of Ministers reiterated that social justice and the Council of Europe’s action on social rights play a crucial role for democratic stability and security. The Ministers restated their commitment to the European Social Charter system and, in their decisions, underlined the importance of the Charter and its monitoring procedures, and welcomed the organisation of a high-level conference.

3. Following the principles set out in the Vienna Declaration and Programme of Action (adopted in 1993 at the World Conference on Human Rights), all “human rights are universal, indivisible, interdependent and interrelated”. These rights include social rights, such as rights related to work, education, housing, social protection, health and well-being, and the human rights aspects of the environment. Combating inequality and social exclusion is vital for all, especially for disadvantaged individuals. It is also crucial for the implementation of the Sustainable Development Goals as defined by the United Nations 2030 Agenda for Sustainable Development.

4. The Council of Europe was established in the belief “that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation”. Social progress was enshrined in the Statute of the Council of Europe (ETS No. 1) as a cornerstone of lasting peace. The Russian Federation’s ongoing war of aggression against Ukraine has had both immediate and lasting fallout as regards the enjoyment of human rights, including social rights for Ukrainians and all persons affected, and, very significantly, for women and children. The repercussions were and continue to be felt across Europe and throughout the world, including on the global economy and trade, particularly with increases in the cost of living and worsening food insecurity.

5. Social justice and the respect for, and the protection and implementation of social rights, as guaranteed in particular by the European Social Charter system, are crucial for promoting democratic security and stability.

It is also very important to respond to new or emerging challenges and avoid the risk of further erosion of social rights protection and increasing inequalities, in order to maintain social cohesion in our societies.

6. Through its monitoring, reporting and collective complaints mechanisms, the Charter provides effective governance inputs, through both the European Committee of Social Rights and the Governmental Committee of the European Social Charter and European Code of Social Security (“the Governmental Committee”), in the pursuit of social justice and the protection of social rights.

7. On the occasion of this High-Level Conference, which coincides with the 25th anniversary of the entry into force of the revised European Social Charter and the 75th anniversary of the Council of Europe, the representatives of Council of Europe member States:

- a. underline the importance of having a robust and responsive social rights framework across Europe, underpinned in particular by relevant treaty law, including the European Social Charter system. It is the collective duty of member States to promote respect for, and the continuing development of, social rights, both as human rights and also as vectors of economic growth, social progress and social cohesion, peace, security and stability;
- b. affirm that military aggression and breaches of peace are incompatible with States’ human rights obligations in general, and, in particular, with their social rights obligations; in this context, welcome the solidarity shown towards the people of Ukraine and the social protection offered by Council of Europe member States to those who are temporarily displaced;
- c. acknowledge the possibility offered by the Charter for States Parties to increase progressively their commitments aimed at respecting, protecting and implementing social rights, a process that can and should be further strengthened through constructive and enhanced dialogue between the competent national authorities and the organs of the Charter, together with social partners;
- d. welcome the commitment of member States of the Council of Europe to promote social justice and, in particular, the efforts made by member States to accept a high level of commitment to social rights, and the effective action taken by the States Parties to the European Social Charter to address the findings and conclusions of the European Committee of Social Rights when necessary;
- e. recall that the Council of Europe Development Bank, in line with its unique social mandate, contributes to strengthening social cohesion through projects with social value in its member countries;
- f. welcome the decisions adopted by the Council of Europe Committee of Ministers to improve the implementation of the Charter system and its monitoring arrangements. This includes an invitation to the European Committee of Social Rights to apply, where possible, the existing Charter provisions to new and emerging social policy challenges and to strengthen the role of the Governmental Committee in respect of follow-up and reflection;
- g. acknowledge the crucial role of national executives and legislatures in strengthening the protection of social rights through legislative action, in particular the part parliaments play in the ratification process of international treaties, and the acceptance of additional commitments under the Charter.

8. Consequently, the representatives of Council of Europe member States:

- a. commit to respect, protect and implement social rights in general and, for the States Parties to the Charter, to pay continued attention to the challenges and opportunities to implement the Charter’s requirements and, to this end, encourage States Parties to make full use of all available possibilities for enhanced dialogue between the organs of the Charter, States Parties and social partners;
- b. encourage member States to consider ratifying the revised European Social Charter (1996) in an effort, alongside the policy approaches of member States, to support the Council of Europe’s stated aim of facilitating economic and social progress;
- c. propose to keep under review the possibilities for acceptance of additional commitments under the Charter, including the collective complaints procedure;

- d. invite the Committee of Ministers of the Council of Europe to:
- i. enable further discussions with national as well as competent local and regional authorities, and social partners, in order to promote a rights-based approach to social policy and the sharing of knowledge and good practice in responding to persistent and emerging common problems and challenges. The following areas might be covered:
 - inequalities, low incomes and social exclusion, housing and demographic change;
 - any form of discrimination having an impact on the full enjoyment of social rights;
 - the social rights dimension related to the Reykjavik Declaration commitment “to [strengthen the] work on the human rights aspects of the environment”;
 - persistent and emerging challenges in the area of work, with the necessary attention being paid to freedom of association and collective bargaining, new forms of employment, the transition to a green economy, digitalisation, including the advent of artificial intelligence, technological change, work-life balance and, very significantly, the questions of participation and dignity (such as the protection against all forms of harassment, including sexual harassment) in the workplace;
 - ii. give increased priority to co-operation activities in the field of social rights with a view to improving the implementation of the Charter in the light of the monitoring outcomes of the European Committee of Social Rights and related Committee of Ministers recommendations. The “social rights” component of the Council of Europe Action Plan for Ukraine “Resilience, Recovery and Reconstruction” 2023-2026, is an inspiring example of such activities;
 - iii. ensure co-operation among Council of Europe entities and committees in the area of social rights, and continue to work together while exploring possibilities to increase co-operation with other international organisations as well as with the European Union in promoting social rights as guaranteed by the European Social Charter and its protocols;
 - iv. remain open to considering possible measures for further optimising the Charter system;
 - v. explore regularly the need to convene this High-Level Conference to address contemporary social policy challenges, also taking into account the expected outcomes.

APPENDIX III: Digest of the case law of the ECSR

Link: [DIGEST OF THE CASE LAW OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS](#)