
**EUROPEAN COMMITTEE OF SOCIAL RIGHTS**
**COMITÉ EUROPÉEN DES DROITS SOCIAUX**

**November 2015**

# SECOND REPORT

# ON THE NON-ACCEPTED PROVISIONS OF THE EUROPEAN SOCIAL CHARTER

# GEORGIA

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# I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions – the Committee of Ministers decided in December 2002 that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised European Social Charter ("the Charter"), and every five years thereafter, the European Committee of Social Rights ("the Committee") reviews the non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. As past experience had shown that States Parties tended to overlook that selective acceptance of Charter provisions was meant to be a temporary phenomenon, the aim of the procedure was to require them to review the situation after five years and encourage them to accept more provisions.

Georgia ratified the Charter on 22 August 2005 and the Committee contacted the authorities in Georgia in January 2015 with a view to applying, for the second time, the procedure provided by Article 22 of the 1961 Charter. It was agreed to hold a meeting between a delegation of the Committee and representatives of various institutions of Georgia in Tbilisi on 3 September 2015. As Georgia has accepted 63 of the 98 paragraphs of the Charter, the meeting covered the remaining 35 paragraphs:

- The right to just conditions of work (Article 2§§3, 4 and 6)
- The right to safe and healthy working conditions (Article 3§§1, 2, 3 and 4)
- The right to a fair remuneration (Article 4§§1 and 5)
- The right of employed women to protection of maternity (Article 8§§1 and 2)
- The right to vocational guidance (Article 9)
- The right to vocational training (Article 10§§1, 3 and 5)
- The right to social security (Article 12§§2 and 4)
- The right to social and medical assistance (Article 13§§1, 2, 3 and 4)
- The right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15§§1 and 2)
- The right of the family to social, legal and economic protection (Article 16)
- The right of children and young persons to social, legal and economic protection (Article 17§2)
- The right to information and consultation (Article 21)
- The right to take part in the determination and improvement of the working conditions and working environment (Article 22)
- The right of elderly persons to social protection (Article 23)
- The right to protection in cases of termination of employment (Article 24)
- The right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25)
- The right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- The right to protection against poverty and social exclusion (Article 30)
- The right to housing (Article 31§§1, 2 and 3)

The situation of Georgia with respect to the Charter appears in Appendix I. The programme of the meeting appears in Appendix II and the list of participants in Appendix III.

The meeting consisted of an exchange of views and information on these provisions not yet accepted by Georgia.

The Committee considered that there were no legal obstacles to the acceptance of Article 2§3, Article 3§§1, 2 and 4, Article 4§5, Article 8§§1 and 2, Article 9, Article 10§§1 and 3, Article 15§1, Article 17§2, Article 21, and Article 22 of the Charter.

A possible problem regarding conformity with Article 3§3, Article 4§1, Article 10§5, Article 12§§2 and 4, Article 13§§1, 2, 3 and 4, Article 15§2, Article 16, Article 23, Article 24, Article 25, Article 28, Article 30 and Article 31§§1, 2 and 3 of the Charter was identified.

Further clarification of the situation in law and practice would be required with respect to Article 2§4 and Article 13§§1, 2 and 3 of the Charter.

An exchange of views also took place concerning the 1995 Additional Protocol to the Charter providing for a system of collective complaints.

The Committee remains at the disposal of the authorities of Georgia and encourages them to take the necessary steps towards acceptance of the collective complaints procedure.

The next examination of the provisions not yet accepted by Georgia will take place in 2020.

## II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

The meeting was chaired by Ms Elza Jgerenaia, Head of the Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs.

The opening address was made by Mr Valeri Kvaratskhelia, Deputy Minister of Labour, Health and Social Affairs, who pointed at the Government's achievements in implementing the commitments undertaken with the ratification of the Charter and underlined the importance of the meeting for Georgia at large. He welcomed the assistance provided by international organisations for the introduction of international standards, the design strategies of social fairness, and the strengthening of social human rights.

Mr Cristian Urse, Head of the Council of Europe Office in Georgia, acknowledged the reform of the Labour Code and the establishment of universal health care. He emphasised that the Council of Europe's programme activities were established with and for the Georgian society and that the implementation of the rights guaranteed under the Charter was important for accessing EU policies. If Government action to ensure social human rights was constrained by the global financial crisis, it was equally true that, without social human rights, no economic development was possible.

Mr Régis Brillat, Executive Secretary of the European Committee of Social Rights, recalled that the Charter was a human rights treaty designed to complement the Convention. He underlined that social human rights go beyond labour law and that the Charter, as it has no prescription to harmonise social policies, leaves States Parties a margin of discretion to implement variable solutions, provided that human dignity are being respected. He pointed out that, as a priority of the Secretary General and within the dynamic of the Turin Process, the Charter was a core Council of Europe activity. No democracy was possible without human rights, no human rights were conceivable without social rights, and no rule of law existed without social justice.

The authorities of Georgia presented the situation in law and in practice in Georgia relating to the non-accepted provisions. During prior consultations between the social partners, the authorities and civil society, a consensus had been reached on some provisions where immediate acceptance could be proposed, whereas other provisions had been identified where acceptance would require some additional developments or had to be postponed.

The Committee members in turn presented some aspects of the case-law with regard to the non-accepted provisions and an opinion on possible acceptance of these provisions. Full information on the case-law is available in the Digest of the Case-Law of the European Committee of Social Rights.

### Provisions relating to Employment, training and equal opportunities

### Article 9: The right to vocational guidance

### Situation in Georgia

The Government reported that, in 2013 a concept on career planning and vocational guidance had been developed, which the authorities started to implement in 2014. Under the coordination of the new career planning department in the Ministry of Education and Science resource officers in educational institutions would now also provide vocational guidance services. These services covered 482 schools in 2014 and 1 004 schools in 2015. Also, high

schools would now provide professional orientation and career planning classes, which provided information on education and professions available after school, and organised field visits to businesses. Moreover, professional education institutions now include a career planning advisor, who teaches trainees at vocational services in the matter. In 2014, the Ministry of Labour, Health and Social Affairs developed a concept for lifelong learning in cooperation with the Ministry of Education and Science and the Ministry of Sports and Youth, which was approved by Government Decree No. 721 of 26 December 2014. A subsequent action plan was currently being drafted. Hence the Government could propose Article 9 for acceptance.

**Opinion of the Committee**

The Committee provided some information on interpretation and case law, underlining that Article 9 implies to set up and operate services that assist all persons in solving their problems relating to occupational choice and opportunity, with due regard to the individual's characteristics.

Such vocational guidance must be provided within the school system and the labour market, addressing in particular school-leavers and job-seekers. It must also be provided free of charge; by qualified and sufficient staff; to a significant number of persons and by aiming and reaching as many people as possible. Equal treatment with regard to vocational guidance must be afforded to non-nationals of other States Parties lawfully resident or regularly working on the territory, which implies that no length of residence be required from students or trainees residing before starting training, except where these entered the territory with the sole purpose of attending training.

Given these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 9. It would, however, request more information with regard to the provision of vocational guidance to job-seekers, the cost of vocational guidance, and the equal treatment of non-nationals from other States Parties.

**Article 10: The right to vocational training**

*Paragraph 1 – Inclusion and access based on individual aptitude*

**Situation in Georgia**

The Government reported that, based on gender equality, the training of citizens follows the concept of inclusive education. The Strategy for Reform of Education 2013-2020 was gave priority to poverty reduction, gender equality, inclusion and children's rights. The action plan adopted achieved these goals by developing the potential, employment and business opportunities, as well as the sustainable development of citizens. It made sure that education matches the demand on the labour market. Currently, vocational training was being marketed with employers, and assistance for training and retraining provided. There were also more dual based educational curricula available. Ministry of Education and Science Order No. 389 of 31 March 2014 created a working group to amend the Law No. 4528-Ib of 28 March 2007 on vocational training to reflect the Social and economic development strategy (Georgia 2020), requirements under the EU Association Agreement, as well as Copenhagen Process documents and European best practices. The working group drafted a bill on vocational training, to be submitted to Parliament by the end of 2015, to establish a more flexible link between vocational training and higher education, vocational retraining and a credit transfer mechanism. Hence the Government could propose Article 10§1 for acceptance.

**Opinion of the Committee**

The Committee provided some information on interpretation and case law, underlining that Article 10§1 implies to provide or promote the technical and vocational training of all persons, including persons with disabilities, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, solely on the basis of individual aptitude.

The notion of vocational training covers general and vocational secondary education as well as vocational training organised by other public or private actors including continuing training. States Parties must build bridges between secondary vocational education and university and non-university higher education; introduce mechanisms for the recognition of knowledge and experience acquired in order to achieve a qualification or to gain access to general, technical and university higher education; take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market; introduce mechanisms for the recognition of qualifications awarded by continuing vocational education and training. Facilities shall be granted to ease access to technical or university higher education, solely on the basis of individual aptitude. This obligation can be achieved by avoiding that registration fees or other educational costs create financial obstacles for some candidates; setting up educational structures which facilitate the recognition of knowledge and experience, as well as the possibility of transferring from one type or level of education to another.

According to the Appendix to the Charter, equal treatment with respect to access to vocational training shall be provided to nationals of other States Parties lawfully resident or regularly working on the territory. This implies that no length of residence be required from students and trainees residing in any capacity on the territory before starting training, or having authority to reside in reason of their ties with persons lawfully residing, except where these, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 10§1. It would, however, request more information with regard to the consultation of the social partners, facilities granted to ease access to higher education solely on the basis of individual aptitude, and the equal treatment of non-nationals from other States Parties.

*Paragraph 3 – Training facilities*

**Situation in Georgia**

The Government reported that the Ministry of Education and Science was currently assessing the situation with regard to training facilities. Adapting teaching materials and the physical environment needed time. But projects were under way to enhance the access to training facilities for persons with disabilities. Hence the Government could propose Article 10§3 for acceptance.

**Opinion of the Committee**

The Committee provided some information on interpretation and case law, underlining that Article 10§3 concerned measures designed to make access to vocational training effective in practice. These concern the obligation to provide or promote (a) adequate and readily available training facilities for adult workers; (b) special facilities to the re-training of adult workers needed as a result of technological development or new trends in employment.

Both employed and unemployed persons, including young unemployed people and self-employed persons, are covered by the provision. As regards employed persons, States Parties are obliged to provide facilities for training and retraining adult workers, so as to fight against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development. As regards unemployed people, the availability of vocational training is measured by the activation rate, i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in such measures. In addition, the existence of legislation on individual leave for training, its characteristics, and the sharing of the burden of the cost of vocational training among public bodies, unemployment insurance systems, enterprises, and households, are to be taken into account. Equal treatment with respect to access to continuing vocational training must be guaranteed to non-nationals on conditions similar to Article 10§1.

Given these requirements, the Committee gave a generally positive assessment of the situation and recommended acceptance of Article 10§3. It would, however, request more information with regard to training facilities available to unemployed persons, the re-training of adult workers as a result of technological development or new trends in employment, existing legislation on individual leave for training, and the equal treatment of non-nationals from other States Parties.

*Paragraph 5 – Full use of facilities available*

**Situation in Georgia**

The Government submitted that the situation did not allow Article 10§5 to be accepted.

**Opinion of the Committee**

The Committee provided some information on interpretation and case law, underlining that Article 10§5 concerned complementary measures to make access to vocational training effective in practice.

These concern (a) reducing or abolishing any fees or charges, ensuring that equal treatment is guaranteed for non-nationals; (b) granting financial assistance in appropriate cases, in particular for vulnerable groups for whom, without such aid, the vocational training could not take place; (c) including time spent on supplementary training taken by the worker, at the request of the employer, in the normal working hours during the employment period; (d) ensuring adequate supervision of vocational training in consultation with employers' and workers' organisations.

Upon request, the Committee pointed out that Article 10§5 implied a progressive obligation to reduce the cost of training, both for workers and employers, by means which each State Party was free to determine.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 10§5, considering that it appeared that in practice, the only possibility to attend vocational training while in employment appeared to be to take annual holiday or to quit the job. It also seemed that the means to reduce or abolish any fees or charges and to grant assistance were not yet available to ensure compliance with Article 10§5.

## Article 15: The right of persons with disabilities to independence, social integration and participation in the life of the community

*Paragraph 1 – Guidance, education and vocational training*

### Situation in Georgia

The Government reported that persons with disabilities had unrestricted access to education in public schools and vocational training institutions. Inclusive vocational training was currently being established with the assistance of the Government of Norway. Within pilot vocational training institutions, 51 students could enroll in mainstream training in 2012, and 242 more in 2013 and 2014. All vocational training institutions currently welcomed students with disabilities. Also, a support mechanism was established by the Ministry of Education and Science to ensure the quality of teaching. Specialists (assistant teachers, body language assistants, vocational guidance assistants) had been hired and trained to provide students with disabilities with the services they need to attend mainstream training. Moreover, universal design principles were developed to improve the physical environment, which were applied in model architecture projects in some vocational training institutions. Hence the Government could propose Article 15§1 for acceptance.

### Opinion of the Committee

The Committee provided information on aspects of interpretation and case law, emphasising that Article 15§1 implies to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private.

The notion of education encompasses primary education, general and vocational secondary education as well as other forms of vocational training. As regards the education of disabled children and adolescents, priority should be given to mainstream schools, whereby provision of the human assistance needed for the school career is required. States Parties enjoy a margin of appreciation only with respect to the means they deem most appropriate to ensure that such assistance is provided, bearing in mind the cultural, political or financial circumstances in which their education system operates. They must take measures in order to enable integration and guarantee that both mainstream and special schools ensure adequate teaching. They must also demonstrate that tangible progress is being made in setting up inclusive and adapted education systems. Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age. It thus covers both children and adults who face particular disadvantages in education. The existence of non-discrimination legislation is a necessary and important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes. Such legislation should, as a minimum, require a compelling justification for special or segregated educational systems and confer an effective remedy on those who are found to have been unlawfully excluded or segregated or otherwise denied an effective right to education.

Given these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 15§1. It would, however, request more information with regard to the inclusion into primary and secondary education, adequate teaching in mainstream and special schools, and any existing non-discrimination legislation.

*Paragraph 2 – Access to employment*

**Situation in Georgia**

The Government reported that work was new on the issue of Article 15§2 and that, at this stage, the Ministry of Labour, Health and Social Affairs was only implementing pilot projects and programmes. The results would reflect in a draft bill to be submitted to Parliament. It was intended to arrange for the State to provide for the remuneration of workers with disabilities through subsidies. Hence the Government submitted that Article 15§2 could only be accepted after these developments had occurred.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law on Article 15§2. It underlined that, under this provision, the right of persons with disabilities to independence, social integration and participation in the life of the community implies to promote access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services.

Legislation must thus prohibit discrimination on the basis of disability and the dismissal on the basis of disability, and confer those who are found to have been unlawfully discriminated effective remedy. In addition, employers must be under an obligation to ensure effective access to employment by reasonably accommodating work conditions, and to keep in employment persons with disabilities, in particular those who have become disabled as a result of an occupational accident or disease. While States Parties enjoy a margin of discretion concerning the other measures they take in order to promote access to employment of persons with disabilities, sheltered employment facilities must be reserved for those persons with disabilities who cannot be integrated into the open labour market, and should aim to assist its beneficiaries to enter that market. Persons working in sheltered employment facilities where production is the main activity must be entitled to the basic provisions of labour law.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 15§2. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Article 15§2 widely reflected international standards, namely those established by the UN Covenant on Economic, Social and Cultural Rights and the UN Convention on the Rights of Persons with Disabilities, which Georgia has ratified.

**Article 24: The right to protection in cases of termination of employment**

**Situation in Georgia**

The Government reported that no consensus had been reached in consultations on the issue of Article 24. There was no legislation yet but, if some aspects of the situation could warrant acceptance of Article 24a, acceptance of other parts of this provision would require the Labour Code to be amended, which the current balance of interests was not in favour of. Hence the Government submitted that the situation did not allow Article 24 to be accepted.

**Opinion of the Committee**

The Committee provided some information on interpretation and case law, underlining that Article 24 implied to recognise (a) the right not to have the employment terminated without valid reasons for such termination connected with capacity or conduct or based on the operational requirements of the undertaking, establishment or service; (b) the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief, including the right to appeal to an impartial body. Whereas all workers who have signed an employment contract come under that protection, according to the Appendix to Article 24, States Parties may exclude one or more of the following categories: (a) workers engaged under a contract of employment for a specified period of time or a specified task; (b) workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration; (c) workers engaged on a casual basis for a short period. This list is exhaustive.

The Appendix to Article 24 also provides a non-exhaustive list of reasons for which termination of employment is prohibited. Some reasons involve conformity to other provisions of the Charter: discrimination (Articles 1§2, 4§3, 15 and 20); trade union activities (Article 5); participation in strikes (Article 6§4); maternity (Article 8§2); family responsibilities (Article 27); worker representation (Article 28). The following are reasons examined only under Article 24: (a) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities; (b) temporary absence from work due to illness or injury; (c) reach by the employee of the normal pensionable age.

The following are considered valid reasons for termination of employment: (a) reasons connected with the capacity or conduct of the employee; (b) certain economic reasons based on the operational requirements of the undertaking, establishment or service. Courts must have the competence to review a case on the economic facts underlying the reasons of dismissal and not just on points of law. Employers must notify employees of their dismissal in writing. Employees who consider themselves to have been dismissed without valid reason must have the right to appeal to an impartial body, whereby the burden of proof should not rest entirely on the complainant, but should be the subject of an appropriate adjustment between employee and employer. Employees dismissed without valid reason must be granted adequate compensation or other appropriate relief, whereby compensation systems are considered appropriate if they include the reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body; the possibility of reinstatement; and/or compensation of a high enough level to dissuade the employer and make good the damage suffered by the employee. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive is proscribed.

Given these requirements, the Committee gave a negative assessment of the situation under Article 24. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Article 24 widely reflected international standards, established by ILO Conventions and Recommendations as well as the EU *acquis*.

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

**Situation in Georgia**

The Government reported that Georgia had refrained so far from ratifying Article 25, but that the issue had now be opened to discussion. Though appropriate legislation was currently in

place, there was yet no mechanism or body to implement it in practice. Hence the Government submitted that the situation did not allow Article 25 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that Article 25 does not require the existence of a specific guarantee institution, enabling States Parties to benefit from a margin of discretion as to the form of protection of workers' claims. The protection afforded, whatever its form, must be adequate and effective. A privilege system, on its own, cannot be regarded as an effective form of protection in situations where there is no alternative. Important aspects to be taken into consideration are the length of period, which should not be excessive, between a claim being lodged and the actual payment and the overall proportion of workers' claims satisfied by the guarantee institution and/or privilege system. Four months for payment are to be considered acceptable whilst 11 months is deemed as excessive. States Parties may limit the protection of workers' claims to a prescribed amount which should appear in the legislation and be of a socially acceptable level, and should also include holiday pay for work performed during the year in which the insolvency occurs.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 25. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Article 25 widely reflected international standards, established by ILO Conventions and Recommendations as well as the EU *acquis*.

**Provision relating to Health, social security and social protection**

**Article 3: The right to safe and healthy working conditions**

*Paragraph 1 – National policy*

**Situation in Georgia**

The Government reported that, after years of discussion, a labour inspection system including an enforcement mechanism through mediation had been established by legislation. A department of labour inspection is currently being set up the Ministry of Labour, Health and Social Affairs, with 25 persons recruited and another 25 on a reserve list undergoing training with assistance from the ILO. The first inspection visits had been conducted in June 2015 in public and in private companies, and questionnaires on occupational safety and health had been distributed to employers and workers, which allowed to collect data and to report on the situation in practice. Even though employers had been suspicious that inspection visits would be punitive rather than preventive, they cooperated so far, and participated in drafting the procedure and the questionnaires. Hence the Government could propose Article 3§1 for acceptance.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, highlighting that under Article 3§1, the right to safe and healthy working conditions implies to implement and periodically review a coherent occupational health and safety policy in consultation with social partners.

The main objective of that policy must be to foster and preserve a culture of prevention, by opposition to a purely curative or compensatory attitude towards accidents and risks, which implies that authorities, employers and workers are involved at company level (i.e. in the assessment of risks specific to the workplace and the adoption of preventive measures) and at public authorities level (i.e. in developing a system of public prevention, information campaigns, awareness-raising; in the labour inspectorate sharing the knowledge about risks and prevention acquired during inspections and investigations). Such policy must be regularly assessed and reviewed in the light of changing risks, and public authorities must be involved in the training of qualified staff, information, quality assurance and research. Such policy must also be drawn up and implemented in consultation with employers' and workers' organisations, at national, sectoral and company level. Whereas mechanisms and procedures for consultation may work on a permanent or an *ad hoc* basis, they must be efficient in promoting social dialogue on occupational health and safety.

Given these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 3§1. It would, however, request more information with regard to the legislation and policy reflecting a preventive approach towards accidents and risks, any review of existing policy in the light of changing risks, and the involvement of public authorities in training, information, quality assurance and research.

*Paragraph 2 – Safety and health regulations*

**Situation in Georgia**

The Government reported that, as Appendix 30 of the Association Agreement with the EU requires transposing the EU *acquis*, appropriate regulations were currently being drafted in consultation with the social partners. Hence the Government could propose Article 3§2 for acceptance.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasizing that under Article 3§2, the right to safe and healthy working conditions implies to issue safety and health regulations providing for preventive and protective measures against workplace risks recognised by the scientific community and laid down in international regulations and standards.

Such regulations must include framework legislation setting out employers' responsibilities and workers' rights and duties, as well as risk-specific regulations with regard to the establishment, alteration and upkeep of workplaces and equipment; hazardous agents and substances; as well as sectors under particular exposure. Most of the existing risks must be covered by specific regulations and limit values must be aligned with those adopted in international reference standards. With regard to asbestos and ionising radiation, States Parties are required to establish that workers are in fact protected up to the level set by international reference standards (ILO Asbestos Convention No. 162 (1986) or Council Directive 83/477/EEC of 19 September 1983; ICRP publication No. 60 or Council Directive 96/29/Euratom of 13 May 1996). National standards with regard to ionising radiation must apply maximum levels of exposure to workers but also to persons which may be exposed to radiation occasionally. Exposure limit values must be reviewed and updated in light of technological progress and development in technical and scientific knowledge. The protection of the provision extends to both employed and self-employed workers, as well as to interim, temporary, seasonal, posted workers as much as those on fixed-term contracts. Without being necessarily tailored to these categories, the regulations must take the exposure to dangerous agents and substances accumulated with several successive employments into account, and eventually prohibit the hiring of non-permanent workers for some particularly

dangerous activities. The protection of the provision includes workers employed on residential premises, such as domestic staff and home workers, and in all companies, regardless of the number of employees. The obligation to consult with employers' and workers' organisations is similar to that set out in Article 3§1.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 3§2. It would, however, request more information with regard to the coverage of most of the existing risks by specific regulations, the validity of limit values with international standards, the protection against asbestos and ionising radiation. It would also inquire into the coverage of workers in atypical employment, as well as into the coverage of domestic staff and home workers and small and medium-sized businesses.

*Paragraph 3 – Measures of supervision*

**Situation in Georgia**

The Government reported that, as the labour inspection system had been established only recently, the situation was in a transition period. No penalties were currently applicable where violations of safety and health legislation and regulations were reported. Appropriate draft legislation and regulations were with the Government, and consultations with the social partners were under way. Hence the Government submitted that Article 3§3 could only be accepted once such legislation and regulations will be in force.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that Article 3§3 implies examining the implementation of regulations in practice. In assessing the frequency and trends in occupational injuries, reference is made to the overall number of occupational accidents and the number of such accidents in relation to the workforce. The same applies to fatal occupational injuries. Computing occupational accidents and diseases must be accurate and in line with accepted statistic methods. A persistent data record may establish a general failure in the system of reporting occupational injuries or the concealment of such injuries in practice.

Since under Article A, States Parties may choose a system of labour inspection which is appropriate to national conditions, inspection services may be divided between several bodies having specialised jurisdiction, provided labour inspection is not deprived of its efficiency by an excessive divide, a lack of resources or imperfect cooperation. Resources allocated must allow to conduct a minimum number of regular inspections to ensure that the largest possible number of workers benefit from the protection afforded by the provision and that the risk of accidents is reduced to a minimum. Inspectors must be entitled to inspect all workplaces in all economic sectors, private as public, also on residential premises. They must have sufficient and appropriate means of information and powers of investigation and enforcement, in particular powers to take emergency measures where they notice an immediate danger to the health or safety of workers. The system of penalties in the event of breaches of the regulations must be efficient and dissuasive. The obligation to consult with employers' and workers' organisations is similar to that set out in Article 3§1.

Given these requirements, the Committee gave a negative assessment of the situation under Article 3§3. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Article 3§3 also reflected international standards established by ILO Conventions and Recommendations as well as the EU *acquis*.

*Paragraph 4 – Occupational health services*

**Situation in Georgia**

The Government reported that occupational health services were provided by the newly established labour inspectors. These were currently trained on their duties and contributions by international organisations and experts were welcome. An awareness-raising campaign used materials from EU-OSHA and it was intended to progressively implement more EU best practices. Hence the Government could propose Article 3§4 for acceptance.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasizing that under Article 3§4, the right to safe and healthy working conditions implies the promotion of the progressive development of occupational health services for all workers with essentially preventive and advisory functions, whereby functions, organisation and conditions or operation of these services may be chosen to match national conditions.

Such services may be run jointly by several companies, but where they are not established within all enterprises, public authorities must develop a strategy for that purpose. They must in all cases be efficient with regard to the number of occupational physicians over total workforce; the rate of enterprises providing occupational health services or who share these services; the trend in the rate of workers supervised by those services. Measures must be taken to allow achieving the set objectives within a reasonable time, with measurable progress, and to an extent consistent with the maximum use of available resources. Strategies must cover the full national territory, nationals of other States Parties, and all types of workers. Occupational health services should be specialised beyond mere safety at work in occupational medicine, and be involved in workplace risk-assessment and prevention, worker health supervision and training in occupational safety and health.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 3§4. It would, however, request more information with regard to the mandate of occupational health services beyond mere safety at work, any existing strategy to make occupational health services available to all workers within all enterprises, and the involvement of occupational health services in workplace risk-assessment and prevention, worker health supervision and training on occupational safety and health.

**Article 12: The right to social security**

*Paragraph 2 – Social security system*

**Situation in Georgia**

The Government reported that, contrary to international standards, social risks were covered as needs-based assistance to vulnerable groups and funded by the State. There was compensation for persons with disabilities, but no coverage of unemployment, accident, family, and a very limited coverage of poverty. There were still many efforts needed to promote the idea of social security. Hence the Government submitted that the situation did not allow Article 12§2 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that under Article 12§2, the right to social security implies to maintain the social security sys-

tem at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No. 102, whereby six of the nine parts must be accepted although certain branches count for more than one part, and each contingency sets minimum levels of personal coverage and minimum levels of benefits. Where that Code has not been ratified, the social security system is assessed in order to decide on the conformity with Article 12§2. Findings under Article 12§1 are also taken into account.

Given these requirements, the Committee gave a negative assessment of the situation under Article 12§2. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Article 12§2 widely reflected international standards, established by the UN Covenant on Economic, Social and Cultural Rights, which Georgia has ratified, as well as ILO Convention No. 102 and the European Code of Social Security.

*Paragraph 4 – National treatment and granting, maintenance and resumption of social security rights accrued under the legislation of other Parties*

**Situation in Georgia**

The Government reported that the existing agreements on social security were few and outdated. The negotiation of new agreements was a difficult endeavour. The priority was to implement first the newly established universal health care. Hence the Government submitted that the situation did not allow Article 12§4 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasising that under Article 12§4, the right to social security implies to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means (i.e. unilateral, legislative or administrative measures), to ensure (a) equal treatment with their own nationals of the nationals of other States Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties; (b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the States Parties. The Appendix to Article 12§4 implies that nationals of other States Parties (such as refugees, stateless persons and self-employed workers) who no longer reside on the territory concerned, but who did reside or work regularly there and who did acquire social security rights, are also covered.

The guarantee of equal treatment within the meaning of Article 12§4(a) requires States Parties to remove any direct or indirect discrimination from their social security legislation against foreigners who are nationals of other States Parties. Such legislation may, however, require a completion of a period of residence for non-contributory benefits, provided such period of residence is reasonable. As regards child benefits, a condition that the child resides on the territory of the paying State Party, is compatible with the provision, hence any child resident in a defined country is entitled to the payment of family benefits on an equal footing with nationals of the country concerned. Therefore, whoever (i.e. the worker or the child) is the recipient under the social security system, States Parties are liable to secure the payment of family benefits to all children residing on their territory. Equality of treatment does, however, not necessarily mean that family allowances should be paid at the same amount when the children for whom they are granted are not residents of the same country

as the recipient. Where the cost of living in the child's country of residence is significantly lower, the level of benefit may be reduced, but the reduction must be proportional to the differences in the cost of living in the State Parties concerned. Invalidity benefits, old age benefits, survivor's benefits and occupational accident or disease benefits acquired under the legislation of one State Party are maintained irrespective of whether the recipient moves between the territories. Article 12§4 does not require that unemployment benefits be exported.

There should be no disadvantage for a person who changes country of employment where he or she has not completed the period of employment or insurance necessary to confer entitlement and determine the amount of certain benefits. This requires the aggregation of employment or insurance periods completed in another State Party and, in the case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and the payment of benefit. States Parties that have ratified the European Code of Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 12§4. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them.

**Article 13: The right to social and medical assistance**

*Paragraph 1 – Adequate assistance*

**Situation in Georgia**

The Government reported that the Constitution and Law No. 1139 of 10 December 1997 on health care (Article 4) guarantees the right to health care for everyone without discrimination. Universal health care for all without a private insurance was established in 2013, covering medication, surgery, hospital, palliative care, maternity care, dialysis, and full coverage of chronic diseases such as tuberculosis, diabetes or AIDS. In addition, there were treatment programmes for specific diseases, such as Hepatitis C. There was also partial assistance and local authorities could top up reimbursements. Older persons were entitled to special packages under the scheme, with a participation limited to 10% of the costs. Since 2013, expenditure on health care had increased significantly, from 475 million GEL in 2012 to 720 million GEL in 2014, which represented 5.5% of the State budget in 2012 and 7.8% in 2014, and 1.7% of GDP in 2012 and 2.6% in 2014. Despite the fact that access to health care had improved dramatically, the cost of health care remained high for the population, and the out of the pocket payments represent *circa* 55% of the cost for medicines. A report by the World Health Organization, the World Bank and the US Agency for International Development (HUES 2014) recommended increasing the expenditure for health care to at least 4% of GDP. Hence the Government submitted that the current situation in practice did not allow Article 13§1 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that under Article 13§1, the right to adequate assistance implies to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care required by his or her condition.

As opposed to Article 12, assistance benefits are those for which individual need is the main criterion for eligibility and which are payable to any person on the sole ground that she is in need, without any requirement of affiliation to a social security scheme, professional activity or

payment of contributions. This does not mean that specific benefits cannot be provided for the most vulnerable population categories, as long as persons who do not fall into these categories are entitled to appropriate assistance. Similarly, a minimum age limit may be set on the grant of benefits, provided that the rule ensures that young people below that age limit receive appropriate subsistence assistance.

The obligation to provide assistance arises as soon as a person is in need, i.e. unable to obtain "adequate resources" either by her own efforts or from other sources, in particular by benefits under a social security scheme. The requirement of a link between assistance and a willingness to seek employment or to receive vocational training is in conformity with Article 13§1, in so far as such conditions are reasonable and consistent with the aim pursued, i.e. to find a lasting solution to the person's difficulties. Beyond this exception, assistance may be conditional only on the criterion of necessity, and the duration of that necessity; it may therefore not be subject to time-limits, and the availability of adequate resources is the sole criterion according to which assistance may be denied, suspended or reduced. As regards States Parties that have not accepted Article 23, the level of non-contributory pension paid to a single elderly person without resources is examined under Article 13§1, and persons who lack adequate resources must be able to obtain free of charge in the event of sickness the care necessitated by their condition. Such medical assistance includes free or subsidised health care or payments to enable these persons to pay for the care required by their condition. The Committee has not determined what care must cover but it has considered that medical assistance should not be limited to emergency situations.

Article 13§1 does not determine what form assistance should take, and benefits may be granted in cash or in kind, but assistance must be "appropriate", i.e. make it possible to live a decent life and to cover the individual's basic needs. In order to assess that level, basic benefits, additional benefits and the poverty threshold in the country, which is set at 50% of the median equivalised disposable income, are taken into account. Where the Eurostat at-risk-of-poverty threshold is not available, the national poverty threshold is taken into account, i.e. the monetary cost of the household basket containing the minimum quantity of food and non-food items which is necessary for a person to maintain a decent living standard and be in good health. Assistance is appropriate where the monthly amount of assistance benefits – basic and/or additional – paid to a single person is not manifestly below the poverty threshold defined above.

Assistance may not depend solely on the discretion of the administrative authorities: the law must lay down objective and precise criteria as well as the procedure for determining resources and needs. The right secured by Article 13§1 must be made object of an effective appeal before a review body, which may be an ordinary court or an administrative body, provided that it offers the following guarantees: (a) independence from the executive and the parties; (b) availability of appeal of all unfavourable decisions concerning the granting and maintenance of assistance; (c) power to judge the case on its merits, not merely on points of law. Legal aid must be available in order to guarantee applicants the effective exercise of their right of appeal.

In accordance with the Appendix to the Charter, foreigners who are nationals of States Parties and are lawfully resident or working regularly in the territory of another State Party and lack adequate resources enjoy the right to assistance on an equal footing with nationals, without the need for reciprocity. Equality of treatment must be guaranteed once the foreigner has been given permission to reside lawfully or to work regularly in a State Party. But the Charter does not regulate procedures for admitting foreigners to the territory of States Parties, hence "resident" status and the resulting equality of treatment may be made subject by national legislation to a condition of length of residence or presence in the territory, provided that condition is not manifestly excessive. Equality of treatment must be guaranteed by legislation or an administrative circular. As long as their lawful residence or

regular work continues, foreigners enjoy equal treatment as well as the protection afforded by Article 19§8, which does not permit expulsion on the ground of needing assistance.

The Committee needed further clarification in law and practice in order to make its assessment of the situation under Article 13§1. It welcomed the establishment of universal health care, but pointed out that the link to the issues of assistance and, in case of sickness, care had not been established. It recalled that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also noted that Article 13§1 widely reflected international standards, established by the UN Covenant on Economic, Social and Cultural Rights, which Georgia has ratified.

*Paragraph 2 – Non-diminution of political or social rights*

**Situation in Georgia**

The Government submitted that, given the link of this provision with the establishment of health care in practice, the current situation did not allow Article 13§2 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasizing that under Article 13§2, the right to adequate assistance implies to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights.

Any discrimination against persons receiving assistance that might result, directly or indirectly, from an express provision must be eradicated. Moreover, provisions enshrining the principle of equality and prohibiting discrimination should be interpreted in practice in such a way as to prevent the use of material living conditions, social status or any other personal circumstances as justification for restriction with regard to political or social rights. Whereas these social rights must at least include those embodied in the Charter, starting with the right to assistance itself, the political rights go beyond those embodied in the European Convention on Human Rights. Furthermore, beneficiaries of social or medical assistance must enjoy an effective protection against discriminatory measures, particularly with regard to their access to employment and public services.

The Committee needed further clarification in law and practice in order to make its assessment of the situation under Article 13§2. It welcomed the establishment of universal health care, but pointed out that the link to the issues of assistance and, in case of sickness, care had not been established. It also noted that Article 13§2 widely reflected international standards, established by established by the European Convention on Human Rights and the UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, which Georgia had ratified.

*Paragraph 3 – Advice and personal help*

**Situation in Georgia**

The Government submitted that, given the link of this provision with the granting of health care in practice, the current situation did not allow Article 13§3 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law. In respect of Article 13§3, the right to adequate assistance implies to provide that everyone may receive

by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want.

As opposed to Article 14§1 on social welfare services in general, Article 30 on measures to co-ordinate services concerned with poverty and social exclusion and Article 31 on social housing and measures to deal with homelessness, Article 13§3 is more specific on free of charge services offering advice and personal assistance specifically addressed at persons without adequate resources or at risk of becoming so.

The social services covered must play a preventive, supportive and treatment role, which means advice and assistance to make those concerned fully aware of their entitlement to social and medical assistance and how they can exercise those rights. In particular, the welfare system should embrace an integrated strategy of alleviation of poverty and empowerment of individuals to regain their place as full members of society, through the means most appropriate to their personal circumstances, wishes and ability. The welfare services must ensure their users an equal and effective access, through the way they operate and are organised, including their geographical distribution; the number, qualifications and duties of the staff employed; their funding and the adequacy of the material and staff resources on the one hand and the number of users on the other hand. The criteria to determine whether those concerned have equal and effective access to such services are the same as those used to assess general social services: (a) eligibility for social services depending on the lack of personal capabilities and means to cope; (b) individual right of access to counselling and advice from social services being guaranteed to everyone likely to need it; (c) rights of the client being protected: any decision should be made in consultation with the client; remedies must be available for those who wish to complain about social welfare services and there must be a right to appeal to an independent body where allegations of discrimination and violation of human dignity are made.

Nationals of States Parties working regularly or residing lawfully within the territory of another State Party must have access to advice and personal help offered by social services on the same conditions as nationals.

The Committee needed further clarification in law and practice in order to make its assessment of the situation under Article 13§3. It welcomed the establishment of universal health care, but pointed out that the link to the issues of assistance and, in case of sickness, care had not been established.

*Paragraph 4 – Equal treatment of nationals of other Parties*

**Situation in Georgia**

The Government reported that the Constitution provides for the equal enjoyment of rights by foreigners with nationals. Also, the law provided for the universal health care for all residents in the territory, but funds were missing to cover all nationals lawfully present in the territory. Currently, public emergency and individual programmes were granted to persons having a citizenship document, a neutral identity card, neutral travel documents, as well as to stateless persons with status, persons seeking asylum and most recently, holders of refugee or humanitarian status. The Government submitted that, given the link of this provision with the granting of health care in practice, the current situation did not allow Article 13§4 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, highlighting that under Article 13§4, the right to adequate assistance implies to apply the provisions referred to in paragraphs 1, 2 and 3 of that Article on an equal footing with their nationals to nationals of other States Parties residing lawfully within their territories, in accordance with their obligations under the 1953 European Convention on Social and Medical Assistance.

Under paragraph 1§1 of the Appendix to the Charter, and as opposed to the personal scope of most other provisions, Article 13§4 refers to foreign nationals who are lawfully present in a State Party but do not have resident status. Consequently, the right of foreigners to emergency assistance also covers foreigners in an irregular situation, and may not be made conditional upon length of presence on the national territory. States Parties are required to provide such non-resident foreigners without resources emergency social and medical assistance to cope with an urgent and serious state of need. Whereas the provision of emergency medical assistance must be governed by the person's state of health, migrant minors in an irregular situation are entitled to health care extending beyond emergency medical assistance, including primary and secondary care as well as psychological assistance. Emergency social assistance should be supported by a right to appeal to an independent body. The conditions for repatriation of non-resident nationals of other States Parties in state of need apply also in respect of States Parties that have not ratified the 1953 Convention.

Given these requirements, the Committee gave a negative assessment of the situation under Article 13§4. It pointed out, however, that the requirements under Article 13§4 were not linked to the establishment of health care in practice, and recalled that the aim was to increase the number of accepted provisions of the Charter, something some States Parties had undertaken to achieve.

**Article 23: The right of elderly persons to social protection**

**Situation in Georgia**

The Government reported that old age pensions at 60 years of age (women) and 65 (men) stood at 150 GEL per person and month (160 GEL as of September 2015). This was subsistence basket level. 180 persons lived in homes for the elderly in Tbilissi and Kubachi and 90 more persons benefitted from community based services, which were on the rise. The quality standards in the institutions were also monitored. But there were still wide gaps in terms of pension indexing, shelter and housing. Hence the Government submmitted that the current situation did not allow Article 23 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, stating that under Article 23, States Parties undertake to adopt or encourage, either directly or in cooperation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as their physical, psychological and intellectual capacities permit, by means of (a) adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life; (b) provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their lifestyle and to lead independent lives in their familiar surrounding for as long as they wish and are able, by means of (a) provision of housing suited to their needs and their state of health or of adequate sup-

port for adapting their housing; (b) the health care and the services necessitated by their state;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.
-
- The Committee gave a negative assessment of the situation under Article 23, considering that the inclusion of elderly persons in practice was at an early stage of implementation. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 23. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them.

**Article 30: The right to protection against poverty and social exclusion**

**Situation in Georgia**

The Government reported that protection against poverty and social exclusion was only provided as monetary assistance for individuals. A pilot project was currently being implemented where 30 households get specific assistance (education, health care, training). But as of today, neither training nor services were available in the territory. Hence the Government submitted that the current situation did not allow Article 30 to be accepted.

**Opinion of the Committee**

The Committee provided information concerning interpretation and case law, drawing attention to two important aspects of Article 30 which concerned: (a) a coordinated approach to promote effective access of vulnerable persons to social human rights; (b) the review of such measures with a view to adapting them, where necessary. The Committee would not only examine the legislation but also require that coordinated policy measures were in place to protect against poverty and social exclusion. These should strengthen access to social human rights, their monitoring and enforcement, improve procedures and management of benefits and services, in particular in the fields of employment, housing, training, education, culture and social and medical assistance. As long as poverty and social exclusion persist, alongside the measures there should also be an increase in the resources deployed to make social human rights possible. The Committee would review poverty data, examine the evolution of the situation and ensure that adequate funding was allocated to attain the objectives of the strategy. The economic crisis should not have, as a consequence, a reduction in the protection of vulnerable persons.

Given these requirements, the Committee gave a negative assessment of the situation under Article 30. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them.

**Provisions relating to Labour rights**

**Article 2: The right to just conditions of work**

*Paragraph 3 – Annual holiday with pay*

**Situation in Georgia**

The Government reported that, as amended, the Labour Code now provided for a minimum of 24 working days of annual holiday with pay. Hence the Government could propose Article 2§3 for acceptance.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that under Article 2§3, the right to just conditions of work implies to provide for a minimum of four weeks annual holiday with pay.

The taking of annual holiday may be subject to the requirement that the twelve working months for which it is due have fully elapsed. At least two weeks uninterrupted annual holidays must be used during the year the holidays were due. Workers who suffer from illness or injury during their annual holiday are entitled to take the days lost at another time so that they receive four weeks annual holiday with pay. Whereas annual holiday may not be replaced by financial compensation and workers must not have the option of waiving their annual leave, this principle does not prevent the payment of a lump sum at the end of employment in compensation for the paid holiday to which a worker was entitled but which he has not taken.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 2§3. It would, however, request more information with regard to the required two weeks of uninterrupted annual holiday per year and the treatment of illness or injury during the annual holiday.

*Paragraph 4 – Elimination of risks in dangerous or unhealthy occupations*

**Situation in Georgia**

The Government reported that Ministerial Order No. 147/N of 3 May 2007 approving the list of heavy, harmful and hazardous work currently recommended a reduction of work where workers are exposed to heavy, harmful and hazardous occupations, but that provision was not mandatory, and no additional holiday was provided for. Hence the Government submitted that Article 2§4 could only be accepted after this recommendation has become an obligation.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasizing that under Article 2§4, the right to just conditions of work implies 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. The assessment of national situations under Article 2§4 takes into account, where appropriate, the information provided and the conclusion reached in respect of Article 3§2.

The second part of Article 2§4 requires States Parties to ensure some form of compensation for workers exposed to risks that cannot be or have not yet been eliminated or sufficiently reduced. Whereas States Parties enjoy a certain margin of discretion to determine the activities and risks concerned, they must at least consider sectors (i.e. mining, quarrying, steelmaking and shipbuilding) and occupations (i.e. involving exposure to ionising radiation; extreme temperatures and noise) that are manifestly dangerous or unhealthy. They may not leave this regulation at the disposal of the social partners. The compensation must aim to offer sufficient and regular time to recover from the associated stress and fatigue. Whereas Article 2§4 mentions compensation by reduced working hours and additional paid holidays, other approaches to reducing exposure to residual risks may also ensure conformity with the Charter, but financial compensation, early retirement or the provision of food supplements may under no circumstances be considered a relevant and appropriate measure to reducing exposure to such risks.

The Committee needed further clarification in law and practice in order to make its assessment of the situation under Article 2§4. It remained unclear whether current law required additional rest or reduction in working hours. It also seemed that the social dialogue had not yet reached a consensus to undertake compliance with Article 2§4. It recalled that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them, and pointed out that Article 2§4 widely reflected international standards, established by ILO Conventions and Recommendations as well as the EU *acquis*.

*Paragraph 6 – Written information on essential aspects of the contract*

**Situation in Georgia**

The Government reported that, as amended, the Labour Code provided for a period of two instead of three months to give written information on essential aspects of the contract. This would need to be discussed and amended. As social dialogue was a new feature, the Tripartite Commission had met only once, but more consultations were in preparation. Hence the Government submitted that Article 2§6 could only be accepted after these developments had occurred.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasising that under Article 2§6, the right to just conditions of work implies to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship.

This information, which may be included in the employment contract or another document, must at least cover the following essential aspects of the employment relationship: identity of the parties; place of work; date of commencement of the contract or employment relationship; expected duration of a temporary contract or employment relationship; annual holiday with pay; length of the notice period in case of termination of contract or employment; remuneration; length of the normal working day or week; where appropriate, a reference to the collective agreements governing the conditions of work. Under the Appendix to Article 2§6, States Parties may provide that this provision shall not apply (a) to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours and (b) where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

Given these requirements, the Committee gave a negative assessment of the situation under Article 2§6. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them, and pointed out that Article 2§4 widely reflected international standards, established by ILO Conventions and Recommendations as well as the EU *acquis*.

**Article 4: The right to a fair remuneration**

*Paragraph 1 – Decent remuneration*

**Situation in Georgia**

The Government reported that the issue of decent remuneration was political, directly linked to financial possibilities, which required more consultations in the Tripartite Commission. Particularly critical was the requirement that the remuneration afford a decent standard of living for the workers' families. Hence the Government submitted that the current situation did not allow Article 4§1 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, stating that under Article 4§1, the right to a fair remuneration implies the recognition of remuneration such as will give workers and their families a decent standard of living.

All workers enjoy the protection of this provision, including civil servants and contractual staff in the civil service, branches or jobs not covered by collective agreement, workers in atypical jobs and special regimes or statuses. The concept of "decent standard of living" goes beyond merely material basic needs and includes resources necessary to participate in cultural, educational and social activities. The concept of "remuneration" relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done, including bonuses and gratuities. To be considered "fair", the minimum or lowest remuneration or wage paid in the labour market, net of tax deductions and social security contributions, must not fall below 60% of the net average wage. If the lowest wage does not satisfy that 60% threshold, but does not fall very far below, it is for the State Party to establish that this wage is sufficient to give the worker a decent standard of living. In extreme cases, i.e. where the lowest wage is less than half the average wage, the situation is held to be in breach of Charter. Providing for a lower minimum wage to young workers is not contrary to the Charter if it serves a legitimate purpose of employment policy and is proportionate to achieve that aim.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 4§1. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them, and that Georgia had undertaken obligations similar to Article 4§1 under the UN Covenant on Economic, Social and Cultural Rights.

*Paragraph 5 – Limits to deductions from wages*

**Situation in Georgia**

The Government reported that current law limited deductions to 50% of wages and that compliance with the provision would not be difficult. Hence the Government could propose Article 4§5 for acceptance.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, highlighting that under Article 4§5, the right to a fair remuneration implies to permit deductions from wages only under conditions and to the extent prescribed by a legal instrument.

Therefore, and the way in which such deductions are determined should not be left at the disposal of the parties to the employment contract, and workers should not be allowed to waive their right under this provision. Any deductions must be subject to reasonable limits and should not *per se* result in disciplining workers and their dependents of their means of subsistence. All forms of deduction are covered by this provision, including trade union dues, maintenance payments, repayment or wage advances, tax debts, compensation for benefits in kind, wage assignments or transfers, etc.

Given these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 4§5. It would, however, request more information on whether that limit preserves the workers' and their dependents' means of subsistence, covers all forms of deduction, and may not be waived.

**Article 21: The right to information and consultation**

**Situation in Georgia**

The Government reported that, given the information provided by the Committee, the requirements under Article 21 had become clear, and acceptance could now be envisaged after consultations with the employers' organisations. Hence the Government submitted that Article 21 might be accepted with the support of the employers' organisations.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasising that Article 21 implies 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 (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.

The provision applies to all undertakings, whether private or public, which are defined as a set of tangible and intangible components, with or without legal personality, formed to produce goods or services for financial gain and with power to determine its own market policy. It does not therefore apply to public servants. States Parties may, however, exclude from the scope of the provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. The right of workers or their representatives to be informed of matters relevant to their working environment and to consultation with respect to proposed decisions that could substantially affect their interests must be effectively guaranteed and legal remedies must be available where that right is not respected.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 21. It would, however, request more information on the implementation of the right to information and consultation in all undertakings, whether

private or public, and the availability of legal remedies in case of failure of compliance by the employer.

**Article 22: The right to take part in the determination and improvement of the working conditions and working environment**

**Situation in Georgia**

The Government reported that, given the information provided by the Committee, it had become clear that Article 22 did not require to offer, or set up, social and socio-cultural services and facilities. Acceptance could now be envisaged after consultations with the employers' organisations. Hence the Government submitted that Article 22 might be accepted with the support of the employers' organisations.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, highlighting that Article 22 implies 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 organisation 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.

The provision applies to all undertakings, whether private or public, which are defined as a set of tangible and intangible components, with or without legal personality, formed to produce goods or services for financial gain and with power to determine its own market policy. It does not therefore apply to public servants. States Parties may, however, exclude from the scope of the provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. The right of workers or their representatives to participate in the decision-making process and the supervision of the observance of regulations in all matters referred to in this provision must be guaranteed effectively. Article 22 does not require that employers offer social and socio-cultural services and facilities, but it does require that, where such services and facilities have been established, workers or their representatives participate in their organisation.

Given these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 22. It would, however, request more information on the implementation of the right to participation in all undertakings, whether private or public, and the implementation of its various components.

**Article 28: The right of workers' representatives to protection in the undertaking and facilities to be accorded to them**

**Situation in Georgia**

The Government reported that, even though Law No. 617 of 2 April 1997 on trade unions, as amended, granted workers' representatives protection, the social partners had not been able to reach consensus on the issue of Article 28. More analysis and the commitment of the employers' organisations were needed. The social dialogue was not yet ready in that regard. Hence the Government submitted that the current situation did not allow Article 28 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that Article 28, the right of workers' representatives to protection in the undertaking and facilities to be accorded to them implied that workers' representatives in the undertaking have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions. States Parties undertake to ensure that: a) they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking; b) they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relation system of the country and the needs, size and capabilities of the undertaking concerned.

In accordance with the Appendix to Article 28, the term "workers' representatives" means persons who are recognised as such under national legislation or practice, hence States Parties may establish different kinds of workers' representatives, i.e. trade union representatives or other types of representatives or both. Protection should cover the prohibition of dismissal on the ground of being a workers' representative and the protection against detriment in employment other than dismissal. It should extend for a reasonable period beyond the effective end of their mandate period of their office. Remedies must be available to allow workers' representatives to contest their dismissal. Where dismissal has occurred on the basis of trade union membership, there must be adequate compensation proportionate to the damage suffered by the victim, i.e. at least the wage that would have been payable between the date of the dismissal and the date of the court decision or reinstatement. The facilities to be afforded under the provision may include for example those mentioned in the ILO Recommendation No. R143 concerning protection and facilities to be afforded to workers representatives within the undertaking, i.e. support in terms of benefits and other welfare benefits because of the time off to perform their functions; access for workers representatives or other elected representatives to all premises; the authorisation to regularly collect subscriptions in the undertaking; the authorization to post bills or notices in one or several places to be determined with the management board, etc. as well as other facilities such as financial contribution to the workers' council and the use of premises and materials for the operation of the workers' council. Moreover, the participation in training courses on economic, social and union issues should not result on a loss of pay, and the training costs should not be borne by the workers' representatives.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 28. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them, and that Georgia had undertaken obligations similar to Article 28 under ILO Convention No. 98 and the UN Covenant on Economic, Social and Cultural Rights.

**Provisions relating to Children, Family and Migrants**

**Article 8: The right of employed women to protection of maternity**

*Paragraph 1 – Maternity leave*

**Situation in Georgia**

The Government reported that the law provided for 180 days of paid maternity leave. Some adjustments were needed, however, on aspects of social security and benefits that as such were unproblematic, but that needed consultations with the social partners. Hence the Gov-

ernment submitted that Article 8§1 could only be accepted after these developments had occurred.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that under Article 8§1, the right of employed women to protection of maternity implies to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women, to take leave before and after childbirth up to a total of at least fourteen weeks.

The protection granted by this provision must be guaranteed by law for all categories of employees and the leave must come under maternity and not under sick leave. Domestic law may permit women to opt for a shorter period, with a compulsory period of no less than six weeks after birth, which may not be waived. The right to maternity leave may be subject to conditions such as a minimum period of contribution and/or employment provided these conditions are reasonable. The period of leave must be accompanied by the continued payment of the worker's remuneration or by the payment of social security or public funded benefits. These benefits must be adequate i.e. equal to the salary or close to its value.

Given these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 8§1. It would, however, request more information on the implementation of the right to maternity leave in practice, in particular with regard to the continued payment of the worker's remuneration or equivalent benefits.

*Paragraph 2 – Non-dismissal*

**Situation in Georgia**

The Government reported that the law provided for protection of the woman from dismissal during maternity leave. Some remaining questions, however, needed to be solved, which needed more consultations with the social partners. Hence the Government submitted that Article 8§2 could only be accepted after these developments had occurred.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasising that under Article 8§2, the right of employed women to protection of maternity implies to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period.

A notification of dismissal during the period of protection does not, as such, amount to a violation of the provision, provided that the period of notice and any procedures are suspended until the end of the period of protection. The same rules apply to the notice of dismissal prior to the period of protection. Domestic law must provide for adequate and effective remedies in cases of illegal dismissal. Whereas reinstatement of the woman concerned should be the rule, exceptionally, if this is impossible or she does not wish it, adequate compensation must be ensured. Since the law may not prevent courts from awarding a level of compensation that is sufficient both to deter the employer and fully compensate the victim of dismissal, any ceiling on the level of compensation that may be awarded, or a ceiling too low to be sufficiently deterrent and compensatory, is not in

conformity with the provision. Where there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage.

Article 8§2 applies equally to women on fixed-term and open-ended contracts but, in accordance with the Appendix to Article 8§2, exceptions could be made for instance: (a) if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship; (b) if the undertaking concerned ceases to operate; (c) if the period prescribed in the employment contract has expired.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 8§2. It would, however, request more information on the implementation of that protection in practice.

**Article 16: The right of the family to social, legal and economic protection**

**Situation in Georgia**

The Government reported that, contrary to international standards, there was no concept of the family as recipient of social benefits and assistance to the family within the meaning of Article 16 did not exist. The law provided only some monetary and non-pecuniary benefits to households; health assistance through individual programmes (i.e. 110 GEL at birth of a child); assistance of families with children in critical situation through a 2015 programme (i.e. 1 000 GEL in kind for food and clothes). No other types of benefits were provided and gaps in legal assistance were significant. Hence the Government submitted that the current situation did not allow Article 16 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that Article 16 implies to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

Since the Charter makes no distinction between the various models of family, every constellation defined as “family” by domestic law, including, under the Appendix to Article 16, single parent families, is covered by this provision. However, States Parties enjoy discretion to choose the means in their endeavour to ensure the social, legal and economic protection of the various types of families that can be found in the population. Article 16 guarantees the family a right to decent housing, which implies promoting and providing an adequate supply of housing for families, taking their needs into account. Adequate housing refers not only to a dwelling that is not sub-standard and that has essential amenities, but also to a dwelling of suitable size considering the composition of the family in residence. The obligation to promote and provide housing extends to security from unlawful eviction, whereby the criteria justifying the eviction of illegal occupants must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure, and these should be sufficiently protective of the rights of the persons concerned. Since the destruction of housing or forced evacuation of villages is contrary to Article 16, States Parties must provide effective remedies to the victims and take measures in order to rehouse families in decent accommodation or to provide financial assistance. Adequate stopping places must be provided to nomadic groups. Families should have access to appropriate social services, in particular in times of difficulty, including family advice and psychological guidance on childrearing. Spouses must be equal in respect of rights and duties within the couple. In cases of family breakdown, Article 16 requires the provision of legal arrangements to settle marital conflicts, in particular conflicts relating to children. Any restrictions of custodial rights should be based on adequate and reasonable criteria laid down by the law, and should not

go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family. Placement of the child outside the home must be an exceptional measure, and is only justified when based on the needs of the child, i.e. if remaining in the family represents a danger. Appropriate alternatives to placement should first be explored, taking into account the wishes expressed by the child, his or her parents and other members of the family. When placement is necessary, it should be considered as a temporary solution, the goal being re-integration with the family. During the placement, contacts with the family should be provided for, unless contrary to the best interest of the child. States Parties are required to provide family mediation services that should be accessible, free of charge, and effective. Whereas Article 16 applies to all forms of domestic violence, adequate protection of such violence against women must be ensured, both in law and in practice, and violence against children is examined under Article 17. These issues are assessed in the light of the principles laid down in Recommendation Rec(2002)5 of the Committee of Ministers of the Council of Europe to member States on the protection of women against violence and Parliamentary Assembly Recommendation 1681 (2004) on a campaign to combat domestic violence against women in Europe.

States Parties are required to ensure the economic protection of the family by appropriate means, primarily through family or child benefits provided as part of social security, which must constitute an adequate income supplement for a significant number of families. Other forms of economic protection, such as birth grants, additional payments to large families or tax relief in respect of children, are also relevant to the implementation of this provision. In accordance with the principle of equal treatment, States Parties are required to ensure the protection of vulnerable families, single-parent families, Roma families, as well as foreign nationals of other States Parties who are lawfully resident or regularly working in the national territory. Making a distinction, the Committee considers that Article 16 precludes length of residence requirements as far as contributory benefits are concerned, and allows States Parties to apply a length of residence requirement as regards non-contributory benefits on condition that the length is not excessive.

Given these requirements, the Committee gave a negative assessment of the situation under Article 16. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them.

**Article 17: The right of children and young persons to social, legal and economic protection**

*Paragraph 2 – Free education and regular attendance*

**Situation in Georgia**

The Government reported that the Ministry of Education and Science has continuously promoted the access to education in recent times. The results are visible, as buildings have been revamped, free transport and text books for children are being provided, and school premises are being adapted to persons with disabilities. Hence the Government could propose Article 17§2 for acceptance.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, pointing out that under Article 17§2, the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities implies to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

Since educational institutions and curricula have to be accessible to everyone without discrimination, and teaching has to be designed to respond to children with special needs, issues relating to the integration of children with disabilities into mainstream education are considered under Article 17§2 where States Parties have not accepted Article 15§1. Their integration into mainstream schools in which arrangements are made to cater for their special needs should be the norm and teaching in specialised schools must be the exception. In general, particular attention should be paid to vulnerable groups, and domestic law must prohibit and penalise all forms of violence against children, that is, acts or behaviour likely to affect their physical integrity, dignity, development or psychological well-being. The Committee considers that Article 17§2 requires States Parties to ensure that children unlawfully present in their territory have effective access to education in keeping with any other child. In order for there to be an accessible and effective system of education, there must be a functioning system of primary and secondary education, which includes an adequate number of schools fairly distributed over the geographical area, reasonable class sizes and teacher-pupil ratio, and a mechanism to control the quality of teaching and the methods used in public as well as private educational institutions. The provision requires that the primary and secondary education be free of charge, whereas hidden costs such as books or uniforms must be reasonable, and assistance must be available to limit their impact on the most vulnerable groups. States Parties must take measures to encourage school attendance and to actively reduce the number of children dropping out or not completing compulsory education and the rate of absenteeism, but they enjoy a margin of appreciation when devising and implementing these measures.

In view of these requirements, the Committee gave a positive assessment of the situation and recommended acceptance of Article 17§2. It would however, unless Georgia accepted Article 15§1, request more information under Article 17§2 on the inclusion of children with disabilities into mainstream education, the penalisation of all forms of violence against children, the distribution of schools over the territory, existing mechanisms to control the quality of teaching and the methods used, and measures to encourage school attendance and reduce the number of children dropping out of compulsory education.

**Article 31: The right to housing**

*Paragraph 1 – Adequate housing*

**Situation in Georgia**

The Government reported that the right to housing was a burning issue, competence in the matter was scattered between various agencies, and the provision of shelter to the homeless was of the competence of local Governments who were not represented in the meeting. The law, however, provided for cooperation between agencies towards a strategy on shelter and housing, and an action plan on shelter was being elaborated. Hence the Government submitted that the current situation did not allow Article 31§1 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasising that under Article 31§1, the right to housing implies to take measures designed to promote access to housing of an adequate standard.

States Parties should promote access to housing in particular to the different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems. The notion of adequate housing must be defined in law with regard to: (a) a dwelling which is safe from a sanitary and health point of view and where specific dangers such as the pres-

ence of lead or asbestos are under control; (b) a dwelling of a size suitable in light of the number of persons and the composition of the household in residence; (c) a dwelling with secure tenure supported by the law. The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock, and not only to housing available for rent, but also to owner occupied housing. Public authorities are liable to ensure that housing is adequate through measures such as an inventory of the housing stock; injunctions against owners who disregard obligations; urban development rules; and maintenance obligations for landlords. They must also set limits against the interruption of essential services such as water, electricity and telephone. The right to adequate housing must enjoy legal protection through adequate procedural safeguards (i.e. access for occupiers to affordable and impartial remedies).

Given these requirements, the Committee gave a negative assessment of the situation under Article 31§1. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Georgia had undertaken obligations similar to Article 31§1 under the UN Covenant on Economic, Social and Cultural Rights.

*Paragraph 2 – Reduction of homelessness*

**Situation in Georgia**

The Government submitted that the situation did not allow Article 31§2 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, underlining that under Article 31§2, the right to housing implies to take measures designed to prevent and reduce homelessness with a view to its gradual elimination.

States Parties must set up procedures to limit the risk of forced eviction, which can be defined as the deprivation of housing which a person occupied due to insolvency or wrongful occupation. Though illegal occupation of a site or dwelling may justify the eviction of the illegal occupants, the criteria of illegal occupation must not be unduly wide, and eviction should be governed by rules of procedure sufficiently protective of the rights of the occupiers. These must include, in particular, an obligation to consult the occupiers in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction. When evictions do take place, they must be carried out under conditions which respect the dignity of the occupiers, and the law must prohibit evictions carried out at night or during the winter period. When an eviction is justified by the public interest, public authorities must adopt measures to re-house or financially assist the occupiers. The law must provide compensation for illegal evictions. It must also provide legal remedies and offer legal aid to occupiers in need of seeking redress from the courts.

Under Article 31§2, homeless persons must be offered shelter as an emergency solution, whereby such shelter must meet health, safety and hygiene standards and be equipped with basic amenities. Since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, shelter must be offered also to children and adults unlawfully present in the national territory.

In view of these requirements, the Committee gave a negative assessment of the situation under Article 31§2. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Georgia had undertaken obligations similar to Article 31§2 under the UN Covenant on Economic, Social and Cultural Rights.

*Paragraph 3 – Affordable housing*

**Situation in Georgia**

The Government submitted that the situation did not allow Article 31§3 to be accepted.

**Opinion of the Committee**

The Committee provided information on aspects of interpretation and case law, emphasising that under Article 31§3, the right to housing implies to take measures designed to make the price of housing accessible to those without adequate resources.

Housing is affordable if the household can afford to pay initial costs, current rent and/or other housing-related costs on a long-term basis while still being able to maintain a minimum standard of living, in accordance with the standards defined by the society in which the household is located. In order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties must (a) adopt appropriate measures for the provision of housing, in particular social housing; (b) adopt measures to ensure that waiting periods for the allocation of housing are not excessive; (c) introduce housing benefits at least for low-income and disadvantaged sections of the population. Such housing benefits are an individual right and all qualifying households must receive it in practice. All the rights thus provided must be guaranteed without discrimination and legal remedies must be available in case of refusal.

Given these requirements, the Committee gave a negative assessment of the situation under Article 31§3. It recalled, however, that the aim was to increase the number of accepted provisions of the Charter, and that some States Parties had accepted all of them. It also pointed out that Georgia had undertaken obligations similar to Article 31§3 under the UN Covenant on Economic, Social and Cultural Rights.

## III. EXCHANGE OF VIEWS ON THE MONITORING PROCEDURE BASED ON REPORTS

The exchange of views on the non-accepted provisions did not allow for the exchange of views on the monitoring procedure based on reports to take place. The Committee would nevertheless share the following information on examination of reports.

**New simplified procedure**

A new simplified procedure of reporting has been introduced as from 2014 for states having accepted the collective complaints procedure, states submit a simplified report, a report on the follow up given to complaints where violations of Charter were found and conclusions of non-conformity. This new procedure meant that every second year, there was a reduced obligation for these States. This had been introduced in order to encourage States to accept the collective complaints procedure with the aim that it would become the main reporting procedure to replace the current system.

The provisions of the Charter are divided into the following four thematic groups:

**Group 1: Employment, training and equal opportunities**
(reports to be submitted by 31 October 2015)

Article 1: The right to work

Article 9: The right to vocational guidance

Article 10: The right to vocational training

Article 15: The right of persons with disabilities to independence, social integration and participation in the life of the community

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

Article 20: The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

Article 24: The right to protection in cases of termination of employment

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

**Group 2: Health, social security and social protection**
(reports to be submitted by 31 October 2016)

Article 3: The right to safe and healthy working conditions

Article 11: The right to protection of health

Article 12: The right to social security

Article 13: The right to social and medical assistance

Article 14: The right to benefit from social welfare services

Article 23: The right of elderly persons to social protection

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

**Group 3: Labour rights**
(reports to be submitted by 31 October 2017)

Article 2: The right to just conditions of work

Article 4: The right to a fair remuneration

Article 5: The right to organise

Article 6: The right to bargain collectively

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 26: The right to dignity at work

Article 28: The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

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

**Group 4: Children, family, migrants**
(reports to be submitted by 31 October 2018)

Article 7: The right of children and young persons to protection

Article 8: The right of employed women to protection of maternity

Article 16: The right of the family to social, legal and economic protection

Article 17: The right of children and young persons to social, legal and economic protection

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

Article 27: The right of workers with family responsibilities to equal opportunities and equal treatment

Article 31: The right to housing

States Parties present a report on the accepted provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years. As from 2014, States Parties having accepted the collective complaints procedure only have to submit a full national report every two years (see above). The Conclusions for Group 4: Children, Migrants and Families, to be adopted in December 2015, will be published in January 2016.

The following aspects of the reporting procedure should be highlighted:

## 1. The Form

The Form is a guide for States in the preparation of their reports and it contains the interpretation of provisions by the Committee (a summary of the information contained in the Digest of the Case-law of the European Committee of Social Rights).

## 2. Replies to questions put by the Committee

There are two sets of questions put by the Committee:

a. General Questions addressed to all States Parties, which appear in the Introduction to the volume of Conclusions published each year. It was important for the national authorities, when drafting the report, to consult the relevant volume of Conclusions for each provision.

The report by Georgia, to be submitted in October 2015, on Group 1: Employment, training and equal opportunities, should reply to the General Questions from the Committee which appear in the General Introduction to Conclusions 2012 (Revised Charter).

b. Questions addressed to individual countries, which appear in the relevant chapter for the country concerned in the volume of Conclusions.

The Georgian authorities would be required to reply in future to questions put by the Committee in the relevant Conclusions. The report to be submitted in October 2015 should reply to the questions put to Georgia in the volume of Conclusions 2012 (Revised Charter).

## 3. Content of the report

a. Information on legislation in force is necessary relating to the provisions in question. In the first report, detailed information on the legal framework must be provided. In the following reports, information should concentrate on legislative amendments since the previous reporting cycle.

b. The practical application of legislation in all of the State's territory is of importance. This may contain information on measures underway and strategies for implementation of legislation in practice. Reports should mention policies which applied during the reference period, provide explanations when changes in policies have occurred and specify objectives as well as results.

c. The monitoring of the implementation of texts and policies is required. The report should indicate how the public authorities ensure that the laws and policies are effectively implemented.

## 4. Statistics

The Committee requires figures, for example, the number of homeless, unemployed persons, regional variations or sectors of activities, to provide a picture of the situation in practice. Reports can refer to data which has already been gathered by other national or international organisations. The Committee systematically studies the data published by Eurostat, the OECD and the EU. It is, however, important that figures provided by the national office for statistics appear in the report.

## 5. Practical information

a. Deadline: the report must be submitted to the Council of Europe by 31 October each year.

b. Language, the report must be submitted in English or French. It is important to ensure a high quality of translation to avoid misunderstandings.

The reports are published on the website of the Charter. Governments are encouraged to publish their report at national level.

c. Consultation of social partners

Under the Charter, States Parties are required to consult the social partners concerning the content of the report. The approach for such consultation is variable, depending on the country. In some cases, social partners may be included in the drafting process whilst in other cases, they are consulted for possible amendments once the report has been put together. In some States, the report is addressed to the social partners who can send their comments directly to the Council of Europe.

Trade Unions and INGOs can make comments on reports which are sent to national authorities to allow a state to make comments in reply before consideration by the Committee.

d. Reports to other bodies

Reports submitted to other international organisations under other treaties, which may overlap with the content of the Charter, for example reports submitted to the International Labour Organisation (ILO), may be referred to.

## IV. EXCHANGE OF VIEWS ON THE COLLECTIVE COMPLAINTS PROCEDURE

The Committee provided an overview of the collective complaints procedure. It underlined that the collective complaints procedure, which came into force in 1998 under an Additional Protocol to the European Social Charter, was not a system of individual applications, as under the European Convention on Human Rights (ECHR), but enabled certain organisations to lodge collective complaints alleging a breach of the Charter. The aim of the procedure was to strengthen the monitoring procedure and give NGO's and trade unions a more prominent role.

The admissibility criteria were more formal than substantive and less onerous than those under the ECHR for example there was no time limit for lodging a complaint, as under the ECHR. A complaint could be lodged at any time, indicating that the complainant organisation fulfils the conditions provided for by the Protocol. Further there was no victim requirement. It was mainly a written procedure with an exchange of submissions by applicants and national authorities. A particular advantage was the rapidity of the procedure as the Committee came to a decision within 24 months. Experience has shown that, since the introduction of the procedure, the number of complaints over time had been relatively limited and has not created an undue burden on governments.

Since the 2014 High-Level Conference in Turin, reinforcement of the collective complaints procedure was a priority of the Secretary General of the Council of Europe and all member States had been called on to ratify the Protocol. It provided a legal tool for guaranteeing the full enjoyment of fundamental social and economic rights and had important implications for improving democracy through the involvement of civil society as actors.

The procedure was useful in particular in enabling those who otherwise find it difficult to access justice to do so. It was effective in that the procedure could have the effect of reducing the number of individual applications before the European Court of Human Rights. He also pointed out it was complementary to the Court and in fact the Committee referred to the case law of the Court, and the Court refer to the decisions of the Committee.

There had only been 118 complaints to date, and for example the number of complaints brought against countries of Central and Eastern Europe such as Bulgaria, Croatia, the Czech Republic and Slovenia were very low.

The Government reported that there had been a first meeting of consultations to exchange information and take stock of interests on the issue. The need was felt to take a careful approach and focus primarily on the acceptance of additional provisions of the Charter.

A number of representatives from public authorities and civil society present at the meeting took the floor to express their support of acceptance by Georgia of the collective complaints procedure.

**APPENDIX I: Programme of the meeting on the non-accepted provisions of the European Social Charter**

**organised by**

**Council of Europe**

**and**

**Ministry of Labour, Health and Social Affairs of Georgia**

**Tbilisi, 3 September 2015**

Venue: Radisson Blu Iveria Hotel
Rose Revolution Square 1
Tbilisi 0108
Georgia

Working languages: Georgian and English

The meeting is organised in the framework of the procedure provided for by Article 22 of the 1961 Charter on “non-accepted provisions”. It will consist of an exchange of views and information on the provisions not accepted by Georgia.

The overall objective is to ensure the effectiveness of social human rights in Georgia.

**10:00 Opening of the meeting**

Valeri Kvaratskhelia, Deputy Minister of Labour, Health and Social Affairs of Georgia
Cristian Urse, Head of the Council of Europe Office in Georgia, Council of Europe
Régis Brillat, Executive Secretary of the European Committee of Social Rights, Head of the Department of the Social Charter, Council of Europe

**10:15 Exchange of views on the provisions of the European Social Charter not yet accepted by Georgia**

**Provisions relating to employment, training and equal opportunities**

Article 9 (vocational guidance), Article 10 (vocational training), Article 15 (rights of persons with disabilities), Article 24 (protection in cases of termination of employment), Article 25 (protection of claims in the event of the insolvency of the employer)

The provisions and related case-law

József Hajdu, Member of the European Committee of Social Rights
Marit Frogner, Member of the European Committee of Social Rights
Florent Duplouy, Administrator at the Department of the European Social Charter, Council of Europe

The situation in law and in practice in Georgia

Irina Tserodze, Head of Vocational Education Development, Ministry of Education and Science of Georgia
Elza Jgerenaia, Head of the Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia

Discussion

**11:30 Coffee break**

**11:45 Provisions relating to health, social security and social protection**

Article 3 (health and safety at work), Article 12 (social security), Article 13 (social and medical assistance), Article 23 (social protection of elderly persons), Article 30 (protection against poverty and social exclusion)

The provisions and related case-law

József Hajdu, Member of the European Committee of Social Rights
Marit Frogner, Member of the European Committee of Social Rights
Régis Brillat, Executive Secretary of the European Committee of Social Rights, Head of the Department of the Social Charter, Council of Europe
Florent Duplouy, Administrator at the Department of the European Social Charter, Council of Europe

The situation in law and in practice in Georgia

Elza Jgerenaia, Head of the Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia
Amiran Dateshidze, Acting Head of the Social Programs' Division, Ministry of Labour, Health and Social Affairs, Head of Social Department
Marina Darakhvelidze, Head of the Health Care Department, Ministry of Labour, Health and Social Affairs of Georgia

Discussion

**13:00 Lunch break**

**14:00 Provisions relating to labour rights**

Article 2 (working time), Article 4 (fair remuneration), Article 21 (information and consultation), Article 22 (participation), Article 28 (protection of workers' representatives)

The provisions and related case-law

József Hajdu, Member of the European Committee of Social Rights
Marit Frogner, Member of the European Committee of Social Rights
Florent Duplouy, Administrator at the Department of the European Social Charter, Council of Europe

The situation in law and in practice in Georgia

Elza Jgerenaia, Head of the Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia

Discussion

**15:15 Provisions relating to children, families and migrants**

Article 8 (protection of maternity), Article 16 (independence, social integration and participation for persons with disabilities), Article 17 (social and economic protection for children), Article 31 (housing)

The provisions and related case-law

József Hajdu, Member of the European Committee of Social Rights
Marit Frogner, Member of the European Committee of Social Rights
Régis Brillat, Executive Secretary of the European Committee of Social Rights, Head of the Department of the Social Charter, Council of Europe
Florent Duplouy, Administrator at the Department of the European Social Charter, Council of Europe

The situation in law and in practice in Georgia

Elza Jgerenaia, Head of the Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia
Amiran Dateshidze, Acting Head of the Social Programs' Division, Ministry of Labour, Health and Social Affairs, Head of Social Department
Irina Tserodze, Head of Vocational Education Development, Ministry of Education and Science of Georgia

Discussion

**16:30 Coffee break**

**16:45 Exchange of views on the monitoring procedures**

The monitoring procedure based on reports and general guidelines for reporting

Significance and development of the collective complaints procedure in the light of the decisions adopted by the European Committee of Social Rights

József Hajdu, Member of the European Committee of Social Rights
Marit Frogner, Member of the European Committee of Social Rights

**18:00 Closing of the meeting**

Valeri Kvaratskhelia, Deputy Minister, Ministry of Labour, Health and Social Affairs of Georgia
Régis Brillat, Executive Secretary of the European Committee of Social Rights, Head of the Department of the Social Charter, Council of Europe

## APPENDIX II: List of participants

| Name | Organisation |
|---|---|
| Valeri Kvaratskhelia | Deputy Minister of Labour, Health and Social Affairs of Georgia |
| Ketevan Natriashvili | Deputy Minister of Education and Science of Georgia |
| Archil Karaulashvili | First Deputy State Minister of Georgia on European and Euro-Atlantic Integration |
| David Lezhava | Deputy Minister of Finance of Georgia |
| Irina Tsulukidze | European Integration Committee, Parliament of Georgia |
| Petre Kankava | Human Rights Committee, Parliament of Georgia |
| Jaba Urotadze | Health and Social Committee, Parliament of Georgia |
| Maia Gogidze | Secretariat of the Speaker, Parliament of Georgia |
| David Magradze | Head of the Cabinet of the Chairman, Parliament of Georgia |
| Shalva Tadumadze | Head of the Healthcare and Social Committee, Administration of the Government of Georgia |
| Tornike Dvali | Human Rights Secretariat, Administration of the Government of Georgia |
| Nino Grdzelishvili | Acting Head of the European Integration Coordination Department, Office of the State Minister of Georgia on European and Euro-Atlantic Integration, Administration of the Government of Georgia |
| Ana Khizanishvili | Human Rights Secretariat, Administration of the Government of Georgia |
| Elza Jgerenaia | Head of Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia |
| Paata Zhozhorliani | Deputy Head of the Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia |
| Marina Darakhvelidze | Head of the Health Department, Ministry of Labour, Health and Social Affairs of Georgia |
| Amiran Dateshidze | Acting Head of the Social Programs' Division, Ministry of Labour, Health and Social Affairs of Georgia |
| Shorena Okropiridze | Head of Division in the Legal Department, Ministry of Labour, Health and Social Affairs of Georgia |
| Irma Gelashvili | Acting Head of the Labour Relations and Social Partnership Division, Labour and Employment Policy Department, Ministry of Labour, Health and Social Affairs of Georgia |
| Irina Tserodze | Head of Vocational Education and Development, Ministry of Education and Science of Georgia |
| Mariam Osadze | Department of International Relations and European Integration, Ministry of Sport and Youth Affairs of Georgia |
| Shorena Shiukashvili | Department of Youth Policy Management, Ministry of Sport and Youth Affairs of Georgia |
| Miranda Khabazi | Ministry of Internal Affairs of Georgia |
| Gulisa Kakhniashvili | Advisor in the Analytical Department, Ministry of Justice of Georgia |
| Kakhaber Petriashvili | Head of the Legal Department, Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia |
| Irma Gabriadze | Head of Division in the Analytical Department, Ministry of Justice of Georgia |
| Lali Ghoghoberidze | Head of the Economic Analysis and Policy Department, Ministry of Economy and Sustainable Development of Georgia |

| | |
|---|---|
| Tatuli Todua | Head of the Department of Civil, Political, Economic, Social and Cultural Rights, Public Defender of Georgia |
| Zurab Sanikidze | Head of the Analytical Department, Ministry of Justice of Georgia |
| Nino Chachava | Ministry of Foreign Affairs of Georgia |
| Maia Kobakhidze | Head of Education and Science, Workers Free Trade Union |
| Beqa Natsvlishvili | Head of the Commission of the City Council |
| Kakhaber Sakandelidze | Advisor, City Council |
| Irakli Pavlenishvili | Head of the Healthcare and Social Committee, City Council |
| Tengiz Shergelashvili | Ministry of Regional Development and Infrastructure of Georgia |
| Nino Chikhladze | Lawyer, Georgian Young Lawyers Association |
| Ana Diakonidze | Local Labour Market and Employment Expert: Technical Advisor to Vocational Education and Training and Employment Reforms in Georgia |
| Nazi Burduladze | Women Information Center |
| Sascha Oliver Rusch | EU Delegation to Georgia |
| Raisa Liparteliani | Lawyer, Georgian Free Trade Union |
| Tatia Berekashvili | Advisor in the Legal Department, Ministry of Justice of Georgia |
| Tinatin Nadareishvili | Human Rights lawyer,<br>Organization Article 42 |
| Ia Dadunashvili | International Labour Organization |
| Zsolt Dudas | Chief Technical Advisor, International Labour Organization |
| Zurab Znelashvili | Business Ombudsman |
| Tamta Otiashvili | Economic Council |
| Denis Davitashvili | Head of Trade Union of Vocational Education |
| Mikheil Kordzakhia | Vice-President, Georgian Employers' Association |
| Ani Mikeladze | Expert, Business Ombudsman |
| Aleko Nachkebia | Expert, Business Ombudsman |
| Lali Douglas-Hamilton | Interpreter |
| Natia Porchkhidze | Interpreter |
| József Hajdu | Member, European Committee of Social Rights, Council of Europe |
| Marit Frogner | Member, European Committee of Social Rights, Council of Europe |
| Régis Brillat | Executive Secretary, European Committee of Social Rights, Head of the Department of the European Social Charter, Council of Europe |
| Florent Duplouy | Administrator, Department of the European Social Charter, Council of Europe |

## APPENDIX III: Situation of Georgia with respect to the European Social Charter

**Ratifications**

Georgia ratified the Revised European Social Charter 22/08/2005, accepting 63 of its 98 paragraphs.

Georgia has not yet ratified the 1995 Additional Protocol providing for a system of Collective Complaints.

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 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 | | | |

**Reports ***

Between 2007 and 2015 Georgia has submitted 8 reports on the application of the Revised Charter.

The 7th report submitted on 21 November 2013 covers the accepted provisions relating to the Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

The conclusions in respect of these provisions were published in January 2015.

The 8th report, submitted on 26 December 2014, concerns the accepted provisions relating to Thematic Group 4 "Children, Family, Migrants", namely:

- The right of children and young persons to protection (Article 7),
- The right of employed women to protection (Article 8),
- The right of the family to social, legal and economic protection (Article 16),
- The right of mothers and children to social and economic protection (Article 17),
- The right of migrant workers and their families to protection and assistance (Article 19),
- The right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- The right to housing (Article 31).

In addition, the report should provide the information required by the European Committee of Social Rights in the framework of Conclusions 2013 relating to Thematic Group 4 "Health, Social Security and Social Protection" (Articles 3, 11, 12, 13, 14, 23 and 30), in the event of non-conformity for lack of information.

The conclusions in respect of these provisions will be published in January 2016.

* Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

## Cases of non-conformity

### Thematic Group 1 "Employment, training and equal opportunities"

► Article 1§1 – Right to work – Policy of full employment
It has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation. (Conclusions 2012)

► Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects
- It has not been established that there is adequate protection against all forms of discrimination in employment
- It has not been established that a worker's right to earn his living in an occupation freely entered upon is adequately protected.

(Conclusions 2012)

► Article 1§4 – Right to work – Vocational guidance, training and rehabilitation
- It has not been established that the right to continuing vocational training for workers is guaranteed.
- It has not been established that specialised guidance and training for persons with disabilities is guaranteed.

(Conclusions 2012)

► Article 10§4 – Right to vocational training – Long term unemployed persons
It has not been established that the right to vocational training is guaranteed for the long-term unemployed. (Conclusions 2012)

► Article 15 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Integration and participation of persons with disabilities in the life of the community
It has not been established that persons with disabilities enjoy effective protection against discrimination in the fields of housing, transport, telecommunications and culture and leisure activities. (Conclusions 2012)

► Article 20 – Right to equal opportunities and equal treatment in employment and occupation without sex discrimination
It has not been established that there is adequate protection against gender discrimination in employment. (Conclusions 2012)

### Thematic Group 2 "Health, social security and social protection"

► Article 11§1 – Right to protection of health – Removal of the causes of ill-health
- The measures taken to reduce infant and maternal mortality rates have been insufficient.
- It has not been established that there is a public health system providing universal coverage.

(Conclusions 2013)

► Article 11§2 – Right to protection of health – Advisory and educational facilities
- Measures for counselling and screening of pregnant women and children are not adequate.
- It has not been established that prevention through screening is used as a contribution to the health of the population.

(Conclusions 2013)

► Article 11§3 – Right to protection of health – Prevention of diseases and accidents

It has not been established that adequate measures have been taken to ensure access to safe drinking water in rural areas. (Conclusions 2013)

► Article 12§1 – Right to social security – Existence of a social security system
- The number of risks covered by the system of social security is inadequate.
- The minimum level of old age benefit is inadequate.
- The minimum level of maternity benefit is inadequate.

(Conclusions 2013)

► Article 12§3 – Right to social security – Development of the social security system
Inadequate measures were taken to raise the system of social security to a higher level. (Conclusions 2013)

► Article 14§2 – Right to benefit from social services – Public participation in the establishment and maintenance of social welfare services
It has not been established that measures are taken to encourage individuals and voluntary organisations to participate in the establishment and running of social welfare services. (Conclusions 2013)

**Thematic Group 3 "Labour rights"**

► Article 2§1 – Right to just conditions of work – Reasonable working time
There is no independent appropriate authority that supervises that daily and weekly working time limits are respected in practice. (Conclusions 2014)

► Article 2§2 – Right to just conditions of work – Public holidays with pay
It has not been established that work performed on a public holiday is adequately compensated. (Conclusions 2014)

► Article 2§5 – Right to just conditions of work – Weekly rest period
It has not been established that the right to a weekly rest period is sufficiently guaranteed. (Conclusions 2014)

► Article 2§7 – Right to just conditions of work – Night work
It has not been established that night workers are effectively subject to compulsory regular medical examination. (Conclusions 2014)

► Article 4§3 – Right to a fair remuneration – Non-discrimination between women and men with respect to remuneration
There is no explicit statutory guarantee of equal pay for work of equal value. (Conclusions 2014)

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment
- It has not been established that the requirement as to minimum number of members presents no obstacle to the founding of organisations.
- It has not been established that the legal framework allowing restrictions on the right to organise that may be included in employment contracts is not detrimental to the right to organise.
- The protection against discrimination based on trade union membership in the context of recruitment and dismissal is insufficient.
- It has not been established that trade unions are entitled to perform and indeed perform their activities without interferences from authorities and/or employers.
- It has not been established that the conditions possibly established with respect to representativeness of trade unions are not detrimental to the right to organise.

- It has not been established to which extent the right to organise applies to staff of law enforcement bodies and the prosecutor's offices.

(Conclusions 2014)

► Article 5 – Right to organise

- It has not been established that the requirement as to minimum number of members presents no obstacle to the founding of organisations.
- It has not been established that the legal framework allowing restrictions on the right to organise that may be included in employment contracts is not detrimental to the right to organise.
- The protection against discrimination based on trade union membership in the context of recruitment and dismissal is insufficient.
- It has not been established that trade unions are entitled to perform and indeed perform their activities without interferences from authorities and/or employers.
- It has not been established that the conditions possibly established with respect to representativeness of trade unions are not detrimental to the right to organise.
- It has not been established to which extent the right to organise applies to staff of law enforcement bodies and the prosecutor's offices.

(Conclusions 2014)

► Article 6§1 – Right to bargain collectively – Joint consultation

- Joint consultation does not take place on several levels.
- Joint consultation does not cover all matters of mutual interest of workers and employers.
- Joint consultation does not take place in the public sector, including the civil service.

(Conclusions 2014)

► Article 6§2 – Right to bargain collectively – Negotiation procedures

- Voluntary negotiations between employers or employers' organisations and workers' organisations are not promoted in practice.
- It has not been established that an employer may not unilaterally disregard a collective agreement.
- It has not been established that the legal framework allows for the participation of employees in the public sector in the determination of their working conditions.

(Conclusions 2014)

► Article 6§3 – Right to bargain collectively – Conciliation and arbitration There is no effective conciliation, mediation or arbitration service. (Conclusions 2014)

► Article 6§4 – Right to bargain collectively – Collective action

It has not been established that the right to collective action of workers and employers, including the right to strike, is adequately recognised. (Conclusions 2014)

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

There are no preventive and reparatory means to effectively protect employees against sexual harassment. (Conclusions 2014)

► Article 26§2 – Right to dignity in the workplace – Moral harassment
It has not been established that employees, during the reference period, were given appropriate and effective protection against moral (psychological) harassment in the workplace or in relation to work. (Conclusions 2014)

► Article 29 – Right to information and consultation in procedures of collective redundancy
The legislation does not effectively guarantee the right of workers to be consulted in collective redundancy procedures. (Conclusions 2014)

**Thematic Group 4 "Children, families, migrants"**

► Article 17§1 – Right of children and young persons to social, legal and economic protection – Assistance, education and training
Corporal punishment of children is not explicitly prohibited in the home. (Conclusions 2011)

► Article 19§10 and 19§12 – Right of migrant workers and their families to protection and assistance – Equal treatment for the self-employed – Teaching mother tongue of migrant
No measures to promote the teaching of the migrant worker's mother tongue have been taken. (Conclusions 2011)

## The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Georgian Government to provide more information in the next report:

**Thematic Group 1 "Employment, training and equal opportunities"**

► Article 1§3 – Conclusions 2012
► Article 10§2 – Conclusions 2012

**Thematic Group 2 "Health, social security and social protection"**

► Article 14§1 – Conclusions 2013

**Thematic Group 3 "Labour rights"**

► Article 4§2 – Conclusions 2014

**Thematic Group 4 "Children, families, migrants"**

► Article 7 – Conclusions 2011
► Article 8§5 – Conclusions 2011
► Article 19§§1, 2, 3, 4, 5, 6, 7, 8 and 11 – Conclusions 2011
► Article 27 – Conclusions 2011

## APPENDIX IV: Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

*(Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter, opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasising that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;

2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;

3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;

4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;

5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.