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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

December 2018

FOLLOW-UP TO DECISIONS ON THE MERITS OF COLLECTIVE COMPLAINTS

Findings 2018

This text may be subject to editorial revision

GENERAL INTRODUCTION

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, certain countries were exempted from reporting on the provisions subject to assessment in the framework of the Conclusions 2018. These countries were invited, instead, to provide information on the follow-up given to the decisions on the merits of collective complaints in which the Committee had found violations.

This document presents the findings of the Committee concerning the follow-up of decisions relating to each of these countries:

- Belgium
- Bulgaria
- Finland
- France
- Greece
- Ireland
- Italy
- Portugal

BELGIUM

BELGIUM

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Belgium was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- European Trade Union Confederation (ETUC)/ *Centrale Générale des Syndicats Libéraux de Belgique* (CGSLB)/ *Confédération des Syndicats chrétiens de Belgique* (CSC)/ *Fédération Générale du Travail de Belgique* (FGTB) v. Belgium, Complaint No. 59/2009, decision on the merits of 13 September 2011 ;

- International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 62/2010, decision on the merits of 21 March 2012;

- Defence for Children International (DEI) v. Belgium, Complaint No. 69/2011, decision on the merits of 23 October 2012;

- International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision on the merits of 18 March 2013;

- Association for the Protection of All Children (APPROACH) Ltd v. Belgium, Complaint No. 98/2013, decision on the merits of 20 January 2015.

European Trade Union Confederation (ETUC), *Centrale générale des syndicats libéraux de Belgique* (CGSLB), *Confédération des syndicats chrétiens de Belgique* (CSC) and *Fédération générale du travail de Belgique* (FGTB) v. Belgium, Complaint No. 59/2009, decision on the merits of 13 September 2011
Resolution CM/ResChS(2013)16

1. Decision of the Committee on the merits of the complaint

1. The Committee concluded that there was a violation of Article 6§4 of the Charter on the ground that the restrictions on the right to strike did not fall within the scope of Article G as they were neither prescribed by law nor in keeping with what was necessary to pursue one of the aims set out in Article G, and in particular because:

- judicial decisions given after a unilateral application were not sufficiently precise and consistent enough to enable parties wishing to engage in a picketing activity to foresee whether their actions would be subject to legal restraint;
- totally excluding trade unions from the proceedings following a unilateral application could lead to a situation where the courts' intervention could produce unfair or arbitrary results.

2. Information provided by the Government

2. In the information registered on 30 October 2017, the Government states that the Committee's decision has had an impact on national case law and that it has been incorporated by certain judges into their interpretation of the right to strike.

3. Firstly, it is important to note that the Belgian courts take into account the European Social Charter. For example, the decision of the Brussels Court explicitly referred to the decision of the European Committee of Social Rights when interpreting the right to strike.

4. Secondly, the measures requested by certain employers in the event of a strike - and allowed by the courts in certain cases - aim to restrict this right for security reasons. Therefore, courts do not prohibit strikes per se – or participation in strikes or picketing. It is actually more specific actions that are prohibited with a view to ensuring safety, such as occupying railways. Consequently, these restrictions do not constitute a limitation on the right to collective action. Similarly, the Mons Court of Appeal prohibited persons from occupying railways or signal boxes, this time on the ground that the fact that there had been several similar strikes recently showed that there was a probable risk of repetition, although it was stressed that there was a need for "exceptional urgency" for a unilateral application to be allowed. This tendency by judges not to restrict collective action is also illustrated by a decision by the President of the Court of First Instance of Antwerp, in which it was held that the commercial and financial damage suffered by an employer did not justify any restriction on collective action.

5. Thirdly, the importance attached to adversarial argument is shown by the approach of Malines Court which, in the context of unilateral applications, explicitly confirmed that priority should always be given to adversarial judicial decisions. In this case, the court insisted on this point, asserting that "in our legal system, there is no place for legal proceedings against unknown persons" and that "it is up to the employer to prove that everything was done to enable an adversarial dialogue". The importance of an adversarial debate was also explicitly confirmed by the Antwerp Court of Appeal in 2012. According to this Court, a unilateral application was not necessary because at least some of the strikers were known. This interpretation was adopted subsequently in 2014 by the Court of Cassation, the highest court in the country, whose task it is to ensure that legal rules are interpreted and applied consistently by all of the country's courts.

6. These arguments were also supported by the Federation of Belgian Enterprises (FEB) in its report registered on 2 May 2018.

3. Assessment of the follow-up

7. The Committee considers that the examples of case law given by the authorities show, on the one hand, that the Belgian case law on strikes is stable, consistent and predictable and, on the other hand, that the proceedings for unilateral applications guarantee procedural fairness.

8. The Committee holds that the situation has been brought into conformity with the Charter and decides to terminate the follow-up to the decision.

International Federation for Human Rights (FIDH) v. Belgium
Complaint No. 62/2010, decision on the merits of 21 March 2012
Resolution CM/ResChS(2013)8

1. Decision of the Committee on the merits of the complaint

9. The Committee concluded that there were several violations of Article E taken in conjunction with Article 16 of the Charter on the following grounds:

- the failure in the Walloon Region to recognise caravans as dwellings;
- the existence in the Flemish and Brussels Regions of housing quality standards not adapted to caravans and the sites on which they were installed;
- the lack of sites for Travellers and the state's inadequate efforts to rectify the problem;
- the failure of planning legislation to take account of Traveller families' specific circumstances;
- the situation of Traveller families with regard to their eviction from sites on which they had settled illegally;

10. The Committee also found a lack of a co-ordinated overall policy with regard to Travellers, particularly on housing, to prevent and combat poverty and social exclusion (violation of Article E read in conjunction with Article 30 of the Charter).

2. Information provided by the Government

The failure in the Walloon Region to recognise caravans as dwellings and the existence, in the Flemish and Brussels Regions, of housing quality standards that are not adapted to caravans and the sites on which they are installed

11. In the information registered on 30 October 2017, the Government stated that according to the Walloon Housing and Sustainable Dwellings Code, caravans are not regarded as dwellings.

12. The report states that the Flemish Region has developed indicative quality standards for trailers. A series of ministerial decrees on funding for the acquisition, planning, renovation and extension of land for Travellers was adopted by the Flemish Government. The standards apply both to residential trailers and caravans parked on single trailer or collective Traveller sites.

The number of sites for Travellers

13. The report indicates that in the Walloon Region in 2016, 1 813 caravans were parked temporarily on public sites. These figures increased in 2017.

14. According to estimates based on long expertise, provided by certain bodies that are in close contact with these families, there are about 1000 Roma, Manush and Traveller families in the Flemish Region.

15. In this region, 487 new places have been set up. In addition to the renovation and extension of existing sites, five Flemish municipalities are planning to purchase and set up new residential sites or have already begun this process. Because not all the projects are sufficiently advanced, the exact number of additional places this will create is not yet known. However, there will be at least 40 more.

Planning legislation taking account of Traveller families' specific circumstances

16. In the Walloon Region, territorial administration and urban development tools are covered by the Spatial Development Code (SDC).

17. The Code includes a nomenclature, which, among other things, lists the activities, works and installations that are exempt from the urban development permit and/or do not require the involvement of an architect. A prior urban development permit is required in particular for the regular use of a site to accommodate several mobile facilities such as trailers or caravans. In such cases, urban development permits are issued only for a limited time. Persons who wish to know precisely what their obligations are regarding urban development permits are advised to contact the relevant department of the municipality in which the site is located.

The situation of Traveller families with regard to their eviction from sites on which they have settled illegally

18. Where there is a risk of eviction from illegally occupied sites, the authorities argue that the Walloon Region provides municipalities with a set of tools to organise the reception of Travellers. Travellers who wish to stay temporarily on the sites set aside for this purpose must begin by contacting the municipal official in charge to make sure that the site is available.

19. For the Flemish Region, there are agreements on regular inventories of sites and needs on the ground. The various agencies involved consult one another on how they can offer more quality sites to Travellers at an affordable price. The agreements on such matters are incorporated into the Horizontal Integration Plan.

A co-ordinated overall policy with regard to Travellers, particularly on housing, to prevent and combat poverty and social exclusion.

20. Where it comes to setting up a co-ordinated overall housing policy for Travellers, the authorities point out that, on 10 September 2015, the Walloon Region adopted a first Plan to Combat Poverty (PLCP), in which emphasis was placed on access to housing and quality of housing.

21. In the Flemish Region, there is an action plan on Travellers, which will be incorporated into the Flemish authorities' Horizontal Integration Plan. The plan comprises measures on health, early childhood, education, housing, local authority support, communication and co-ordination.

22. The Brussels-Capital Region plans to make legislative amendments to enhance itinerant homes, highlight minimum standards for Traveller sites, and allow fixed-term permits on sites awaiting works. Since 2015, the Brussels Government has allocated €850 000 for direct social assistance to immigrants, homeless persons and Roma and Travellers. Similarly, since 2016, €600 000 have been allocated to a specific call for projects for Roma and Travellers. Lastly, the Territorial Development Agency (ADT) in that region has established a register of land suitable for development to make research easier.

3. Assessment of the follow-up

A. The recognition, in the Walloon Region, of caravans as dwellings and the existence, in the Flemish and Brussels Regions, of housing quality standards that are not adapted to caravans and the sites on which they are installed **(Article E taken in conjunction with Article 16 of the Charter)**

23. The Committee notes that the recognition of caravans as dwellings is a regional responsibility. In the Flemish and Brussels Regions, caravans are regarded as dwellings (Flemish Housing Code, Articles 2 and 33; Brussels Housing Code of 27 January 2012, Articles 2 and 28) whereas in the Walloon Region they are not. The Committee wishes to point out that this constitutes indirect discrimination as it means that the specific situation of Traveller families is not taken into account.

24. The Committee notes that under Article 175bis of the Brussels Housing Code, the Government must establish by decree the minimum standards in terms of health, safety and utilities to be met specifically by mobile homes and by the sites made available for such homes by the authorities. The authorities have not indicated whether such a decree has been adopted.

25. Although in the Brussels Region caravans are legally recognised as dwellings, the housing quality standards in force (on health, safety and living conditions) are still those which were drawn up before caravans were recognised as dwellings and are not therefore adapted to them. If these standards were applied strictly, a large majority of caravans might be declared uninhabitable.

26. On the other hand, the Flemish Region has developed indicative quality standards for trailers.

27. Nonetheless, the Committee would point out again that the feature which undoubtedly makes Traveller families completely different where housing is concerned is their caravan lifestyle. This situation calls for differentiated treatment and tailored measures to improve their housing conditions. This principle is not applied everywhere in Belgium because caravans are not recognised as dwellings throughout the country and if housing quality standards relating to health, safety and living conditions were strictly applied, a large majority of caravans might be declared uninhabitable.

28. The Committee concludes that the situation has not been brought into conformity because of the failure in the Walloon Region to recognise caravans as dwellings and the absence in the Brussels Region of housing quality standards relating to health, safety and living conditions that are adapted to caravans and the sites on which they are installed.

B. The lack of sites for Travellers and the state's inadequate efforts to rectify the problem (Article E taken in conjunction with Article 16 of the Charter)

29. The report does not indicate an increase in the number of sites available for Travellers in the Brussels Region.

30. Regarding the Walloon Region, the Committee notes that there has been progress, but that some projects are ongoing.

31. The Committee would emphasise that there is a positive obligation on the state to ensure that there is an adequate number of accessible residential sites for Traveller families

to park their caravans. This means that public sites for Travellers must be properly fitted out with the basic amenities necessary for a decent life. Such sites must possess all the basic amenities, such as water, waste disposal, sanitation facilities and electricity, and must be structurally secure, not overcrowded and with secure tenure supported by law. It is also important, in order to secure social integration and, in particular, access to employment and education for Travellers, that sites are located in an appropriate setting, with easy access to public services, employment opportunities, health care services and other social facilities. In the view of the information received according to which projects are ongoing and the number of effective places remains unknown, the Committee considers that the situation has not been brought into conformity with the Charter.

C. The failure to take account of the specific circumstances of Traveller families when drawing up and implementing planning legislation (Article E taken in conjunction with Article 16 of the Charter)

32. The Committee would point out that the caravan lifestyle of Traveller families most certainly makes their housing situation quite distinct from other people. The report does not indicate whether planning legislation and its implementation ensure differential treatment of those families and of the adapted measures for improving their living conditions. The Committee asks for detailed information in the next report on the documents to be submitted when applying for a planning permit and on the length of the permits delivered to Travellers.

D. The situation of Traveller families with regard to their eviction from sites on which they have settled illegally (Article E taken in conjunction with Article 16 of the Charter)

33. The Committee notes the efforts made by the Walloon and Flemish Regions where there is a risk of eviction from illegally occupied sites.

34. It calls to mind, however, that to comply with the Charter, legal protection for persons threatened with eviction must be prescribed by law and include:

- an obligation to consult the affected parties to find alternative solutions to eviction;
- an obligation to fix a reasonable notice period before eviction;
- a prohibition from carrying out evictions at night or during winter;
- access to legal remedies;
- access to legal aid;
- compensation for illegal evictions.

35. Furthermore, when evictions do take place, they must be:

- carried out under conditions which respect the dignity of the persons concerned;
- governed by rules of procedure that are sufficiently protective of the rights of the persons concerned;
- accompanied by proposals for alternative accommodation.

36. The Committee asks for confirmation that the procedural safeguards introduced to limit the risk of expulsion are respected.

37. In the absence of such information, the Committee concludes that the situation has not been brought into conformity with Article E taken in conjunction with Article 16 of the Charter.

E. The lack of a co-ordinated overall policy with regard to Travellers, particularly on housing, to prevent and combat poverty and social exclusion (Article E taken in conjunction with Article 30 of the Charter)

38. The Committee notes the adoption, on 10 September 2015, of the first Plan to Combat Poverty in the Walloon Region, and the plans to include an action plan on Travellers in the Flemish authorities' Horizontal Integration Plan.

39. It therefore considers that, as a vulnerable group, Travellers do not sufficiently benefit from a co-ordinated overall policy to combat the poverty and social exclusion from which they suffer in Belgium, whereas their situation requires differentiated treatment and targeted measures to improve their circumstances.

40. The Committee considers that the situation has not been brought into conformity Article E taken in conjunction with Article 30 of the Charter.

41. It will assess the results of the measures taken and announced on the basis of the information on the follow-up to the decision to be submitted in October 2019.

Defence for Children International (DEI) v. Belgium, Complaint No. 69/2011, decision on the merits of 23 October 2012
Resolution CM/ResChS(2013)11

1. Decision of the Committee on the merits of the complaint

42. In its decision, the Committee concluded that there was a violation of Article 17§1 on the following grounds:

- the Government had not taken the necessary and appropriate measures to guarantee illegally resident accompanied foreign minors the care and assistance they needed;
- the Government had not taken the necessary and appropriate measures to guarantee non-asylum seeking unaccompanied foreign minors the care and assistance they needed.

43. The Committee also concluded that there was a violation of Article 7§10 on the ground that the Government had not taken the necessary steps to ensure that unaccompanied foreign minors and illegally resident accompanied minors received special protection against physical and moral hazards, thereby posing a serious threat to the enjoyment of their most basic rights, such as the right to life, to psychological and physical integrity and to respect for human dignity.

44. Lastly, the Committee concluded that there was a violation of Article 11§§1 and 3 on the ground that unaccompanied foreign minors and illegally resident accompanied minors were not guaranteed the right of access to health care.

45. In its 2015 findings, the Committee concluded that the situation had been brought into conformity with Articles 17§1 and 7§10 of the Charter. It found that the measures taken now guaranteed accommodation for unaccompanied foreign minors and illegally resident accompanied minors in a reception centre.

46. The Committee concluded that there had been a violation of Article 11§3 on the ground that the prevention of epidemic, endemic and other diseases, as well as accidents, was not guaranteed in respect of unaccompanied foreign minors and illegally resident accompanied minors. As to the violations of Article 11§§1 and 3, the Committee found that the information provided afforded no clarification on actual and effective access to health care for illegal unaccompanied foreign minors and illegally resident accompanied minors living in shelters, and ruled that the situation had not been brought into conformity with the Charter.

2. Information provided by the Government

47. In response to the findings of violations of Article 11§§1 and 3, in the report submitted on 30 October 2017, the Belgian authorities stated that unaccompanied foreign minors (UFMs) were entitled to health care under the Law on compulsory health care insurance and allowances.

48. When unaccompanied foreign minors may claim dependent status, they enjoy a right to healthcare provision derived from the rights holder on whom they are dependent.

49. Regarding vaccinations, the report states that at Community/Regional level, if unaccompanied minors arriving in Belgium are processed by the Belgian statistical office, Statbel, they are offered vaccines as soon as they register. If they go on to receive

accommodation in an LRI (Local Reception Initiative) or attend school, they receive the necessary booster vaccines.

50. Minors who might not attend school because they are travelling or residing in camp sites for Travellers can be treated by the vaccination team that visits regularly.

51. Regarding mental health, Flanders provides additional subsidies to guarantee refugees access to mental health care, focussing on unaccompanied foreign minors and refugee families with children.

52. As to hospital and emergency service access, illegal residents are entitled to emergency medical care.

3. Assessment of the follow-up

53. The Committee notes the information provided by the Government in response to the findings of violations of Article 11§§1 and 3 and considers that in general, the health care rights of accompanied and unaccompanied foreign minors in the care of the relevant authorities and organisations are guaranteed by current Belgian legislation.

54. However, the Committee refers to the report of the Council of Europe Commissioner for Human Rights following his visit in September 2015, in which he noted that unaccompanied minors can still be detained should they be subjected to age determination tests. He expressed concern at information indicating that age determination is carried out via a mostly medical screening process and reiterated that age determination of unaccompanied migrant minors is a complex process involving physical, social and cultural factors and that incorrect age assessments may have detrimental consequences for the child concerned, including wrongful detention. The Committee points out that in its decision on the merits of 24 January 2018 in European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, it found that using bone tests to determine the age of unaccompanied foreign minors was inappropriate and unreliable (§113).

55. The Committee also refers to situations where migrant families with children are detained in newly constructed closed detention units near Brussels airport. It refers to the Commissioner's letter of 5 June 2018 to the Belgian authorities (https://www.coe.int/fr/web/commissioner/-/commissioner-calls-on-belgium-not-to-resume-detention-of-migrant-children), which stressed that full respect for children's rights implies that children should never be detained on grounds of their or their parents' immigration status. Accordingly, the Commissioner invited the Belgian authorities to step up efforts to devise alternatives to detention for families with children.

56. In its decision on EUROCEF v. France, the Committee concluded that there was a violation of Article 17§1 of the Charter due to the detention of unaccompanied foreign minors in waiting areas (§101).

57. Therefore, the Committee recalls that the detention of accompanied or unaccompanied minors, who are some of the most vulnerable groups, can have a severe impact on their physical and mental health.

58. However, in view of the violation found in the present case and the information provided by the authorities, the Committee considers that the situation has been brought into conformity with article 11 §§ 1 and 3 of the Charter and decides to terminate the follow-up to the decision.

International Federation for Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision on the merits of 18 March 2013
Resolution CM/ResChS(2013)16

1. The Committee's decision on the merits of the complaint

59. In this decision the Committee found that there was a violation of Article 14§1 of the Charter because of the significant obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services suited to their needs.

60. The Committee also found that there was a violation of Article 14§1 on the ground that there were no institutions in the Brussels-Capital Region providing advice, information and personal help to highly dependent adults with disabilities.

61. It was concluded that there was a violation of Article 16 of the Charter on the ground that the shortage of care solutions and social services adapted to the needs of persons with severe disabilities caused many families to live in precarious circumstances, undermining their cohesion, and amounted to a failure by the respondent state to protect the family as a social unit.

62. It was also concluded that there was a violation of Article 30 of the Charter on the ground that the state's failure to collect reliable data and statistics throughout the metropolitan territory of Belgium in respect of highly dependent persons with disabilities prevented an overall and co-ordinated approach to the social protection of these persons and constituted an obstacle to the development of targeted policies concerning them.

63. The decision also finds that there was a violation of Article E taken in conjunction with Article 14§1 on the ground that Belgium had not established sufficient day and night care facilities to prevent the exclusion of many highly dependent persons with disabilities from social welfare services suited to their specific, tangible needs. Concerning this violation, in its 2015 findings, the Committee concluded that the situation had been brought into conformity.

64. Lastly, the Committee concluded that there was a violation of Article E taken in conjunction with Article 16 on the ground that the shortage of care solutions and social services suited to the needs of persons with severe disabilities obliged them to live with their families and caused many families to live in precarious and vulnerable circumstances. Concerning this violation, the Committee has found that the situation has been brought into conformity.

2. Information provided by the Government

65. The Government states in the information registered on 30 October 2017 that each of the three regions has taken steps to resolve the situation of non-conformity.

- *The significant obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs (violation of Article 14§1)*

66. The report states with regard to the Brussels Region, that, as a body operating in the European capital, the French Community Commission (COCOF) is in very high demand, but it has a limited budget, meaning that it is unable to deal with all the persons who turn to it owing to a lack of capacity in institutions able to meet those needs.

67. Therefore, the COCOF has negotiated an agreement with the Walloon Region for it to take a number of highly dependent persons into its care.

68. As to the lack of institutions in the Brussels-Capital Region providing advice, information and personal help for highly dependent adults with disabilities, the report states that the social welfare services apply the following criteria:

- there must be trained staff in sufficient numbers;
- highly dependent adults with disabilities must be as involved as possible in decisions concerning them;
- there must be public and private mechanisms to monitor the suitability of services.

69. In the Walloon Region, the Agency for Quality of Life (AViQ) is the new Walloon agency for health, social protection, disabilities and families, established on 1 January 2016 by a Decree of 3 December 2015 and in charge of major disability policies. It is stated that, in the next report, the AViQ will be able to provide relevant indicators on the care given to highly dependent persons.

70. In the Flemish Region, the Flemish Agency for Persons with Disabilities started a complete transition in 2015 towards a new funding system which enables persons with disabilities to take control of the assistance and care given to them. The institutions are now no longer subsidised. To date, approximately 24 000 adults have benefited from the new funding system.

- *The shortage of care solutions and social services adapted to the needs of persons with severe disabilities caused many families to live in precarious circumstances, undermining their cohesion, and amounted to a failure by the state to protect the family as a social unit (violation of Article 16).*

71. The report states that the Law of 12 May 2014 defined the notion of family carers and established a procedure for recognition. However, to date, no royal decree has been adopted to put this recognition into practice.

72. The authorities highlight a series of measures adopted for family carers, such as authorisation to earn up to €500 a month as an additional tax-free income in certain sectors, a 48-month pension credit for part-time workers who help persons with reduced autonomy, and other measures to recognise the work of family carers.

- *The state's failure to collect reliable data and statistics throughout the metropolitan territory of Belgium in respect of highly dependent persons with disabilities prevented an overall and co-ordinated approach to the social protection of these persons and constituted an obstacle to the development of targeted policies concerning them (violation of Article 30).*

73. The report stresses that the Belgian authorities wish to avoid a situation where citizens in general and persons in vulnerable situations in particular miss out on their rights due to a lack of information and, what is more, that these persons should be able to enjoy the related benefits without having to complete administrative formalities.

74. To that end, the authorities have launched several projects to promote accessibility and the inclusion of persons with disabilities in society.

3. Assessment of the follow-up

75. The Committee takes note of the measures taken. It considers that progress has been made to ensure that highly dependent adults with disabilities have equal and effective access to social welfare services. However, as mentioned in the report, not all of the measures planned have been adopted to date. In particular, the authorities have failed to answer the question concerning the percentage of highly dependent adults with disabilities who do not have access to social welfare services. In this regard, the Committee notes the limited capacities of the Brussels Region to provide care solutions for all the persons who seek its assistance.

76. The Committee does see progress in various parts of the country, but the shortage of care solutions and social services adapted to the needs of highly dependent adults with disabilities means that many families continue to live in vulnerable circumstances.

77. The Committee takes note of the projects launched to enable the state to collect reliable data and statistics on highly dependent persons with disabilities throughout the metropolitan territory of Belgium. The Committee will assess, on the basis of the information to be submitted in October 2019 on follow-up to its decisions, whether data and statistics thus collected have led to an overall, co-ordinated approach to giving highly dependent persons with disabilities and their families access to welfare and medical assistance.

78. The Committee encourages the authorities to persevere in their efforts to implement the measures planned. It will assess whether the measures taken have afforded access to all the members of this group in the light of the information to be submitted in October 2019 on the follow-up to its decisions.

79. The Committee considers that the situation has not been brought into conformity with Articles 14§1, 16 and 30 of the Charter.

80. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

Association for the Protection of All Children (APPROACH) Ltd v. Belgium, Complaint No. 98/2013, decision on the merits of 20 January 2015
Resolution CM/ResChS(2015)12

1. Committee's decision on the merits of the complaint

81. In its decision, the European Committee of Social Rights concluded unanimously that there was a violation of Article 17§1 of the Charter on the grounds that none of the national provisions, taken together or in isolation, is set out in sufficiently precise terms to enable parents and "other persons" to model their conduct on Article 17 of the Charter, which requires that States' domestic law must prohibit and penalise all forms of violence against children, that is to say acts or behaviour likely to affect the physical integrity, dignity, development or psychological well-being of children.

2. Information provided by the Government

82. The Government states that a debate has been launched with a view to bringing Belgian civil legislation into conformity with Article 17 of the European Social Charter. This paves the way for an appraisal of how to adapt Belgian legislation in this area.

83. The prohibition of all forms of violence against children is in line with developments in Belgian society and reflects public opinion on this matter.

84. Belgium, like the Committee on the Rights of the Child, considers that the use of violence for educative purposes is unacceptable whatever the circumstances. Parenting necessarily requires physical actions and responses to raise and protect children. These actions and responses are distinct from the deliberate use of force to inflict pain or humiliation by way of a punishment. Measures that allow parents and children to take time out can relieve pressure and restore calm. This sends a signal to parents and children that there are alternatives to the use of violence as a punishment.

85. This ban is intended to apply to persons with parental authority, guardians and those responsible for a child's care and upbringing.

3. Assessment of the follow-up

86. The Committee takes note of the Belgian authorities' commitment to bringing the situation into conformity with Article 17§1 of the Charter and invites the authorities to keep it informed of any plans to change legislation to this effect.

87. The Committee holds that the situation has not been brought into conformity with the Charter.

88. Pending receipt of further information, it will reexamine the situation on the basis of the information to be submitted in October 2019.

BULGARIA

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In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Bulgaria was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- European Roma Rights Centre v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006
- Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008
- European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008

European Roma Rights Centre v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006
Resolution CM/ResChS(2007)2

1. Decision of the Committee on the merits of the complaint

89. The Committee concluded that there was a violation of Article 16 of the Charter taken in conjunction with Article E on the following grounds:

- the inadequate housing of Roma families and the lack of proper amenities;
- the lack of legal security of tenure and the non-respect of the conditions accompanying eviction of Roma families from dwellings unlawfully occupied by them.

2. Information provided by the Government

90. The Government indicates in the information registered on 31 October 2017 that in the framework of the two Operational Programmes "Regional Development" (OPRD) 2007-2013 and "Regions in Growth" (OPRG) 2014-2020 which contribute to the implementation of the National Integration Strategy, especially its priority on "Improving the housing conditions", the following activities were undertaken in the period 01 January 2014 and 31 of December 2016.

- Operational Programme "Regional Development" (OPRD) 2007-2013

91. The main target of this scheme was to promote social inclusion of disadvantaged and vulnerable population groups by improving their standard of living and the quality of the housing of urban communities. The specific objectives were the provision of modern social housing and equal access to adequate housing conditions for vulnerable and disadvantaged groups. The financial resources under this scheme amounted to BGN 15.659.106, 46. It is indicated that the projects implemented under the OPRD 2007-2013 were not targeted exclusively at the Roma, but to all identified marginalised groups on the target territories.

92. The authorities mention that grant agreements were concluded with the municipalities Vidin, Dupnitsa, Devnya, Sofia City and Varna for projects aimed at building new social housing and/or reconstructing/repair/renovating the existing housing for disadvantaged population groups, including Roma. While the project of the municipality of Varna failed to meet the deadline, the other 4 projects for providing contemporary social housing to disadvantaged population groups were completed. The results of these projects are reported as follows: 684 persons from the target group benefited from the improved social infrastructure and were accommodated in social housing; 334 units of individual social accommodation and 35 036, 77 sqm of improved social housing infrastructure (floor area). Two social housing projects in Burgas and Varna failed because of public protests and of the negative attitude on the part of the local residents in the areas targeted for social housing construction.

93. Following the implementation of the pilot scheme for social housing under OPRD 2007-2013, support for the provision of social housing continued under the programming period 2014-2020. Measures envisaged under OPRD 2014-2020 include activities for reconstruction of social infrastructure for the needs of education and culture. The authorities indicate that no results can be reported yet since no grant agreement have been completed so far.

- Operational Programme "Regions in Growth" (OPRG) 2014-2020

94. The authorities indicate that social housing projects were envisaged under the scheme "Implementation of Integrated Plans for Urban Regeneration and Development 2014-2020" which was launched in July 2015. The investments are to be realised on the territory of 39 towns and are targeted at a better urban environment, renovating the educational, social and cultural infrastructure, energy efficiency of buildings, and developing urban transport systems. In 2016, all the 39 Investment Programmes of the scheme were approved. According to the social housing construction plans included in the Integrated Plans for Urban Regeneration and Development, the envisaged resource amounts to BGN 54 916 985.88. It is planned that the number of rehabilitated accommodation units in the urban areas will reach 1 140 by 2023.

95. The scheme "Implementation of Integrated Plans for Urban Regeneration and Development 2014-2020" is not exclusively targeted at the Roma, but all the identified target groups. It is also reported that no grant agreements have yet been concluded for this scheme; therefore no results can be reported.

3. Assessment of the follow-up

(a) As to the inadequate housing of Roma families and the lack of proper amenities

96. The Committee takes note of the measures taken through the two Operational Programmes OPRD 2007-2013 and OPRG 2014-2020 which were already announced in the previous information submitted in December 2014. It notes that the projects under OPRG 2014-2020 are still in the implementation phase.

97. With regard to the practical impact of these Programmes on the housing situation of Roma, the Committee notes that according to the information provided by the authorities, only 684 persons were accommodated in social housing as a result of the implementation of 4 projects for providing social housing to vulnerable and disadvantaged groups under the OPRD 2007-2013. The information does not specify the percentage of Roma population/how many Roma families were provided with adequate housing.

98. The Committee notes that in its Resolution CM/ResCMN(2018)2 of 7 February 2018 on the implementation of the Framework Convention for the Protection of National Minorities by Bulgaria, the Committee of Ministers of the Council of Europe while noting that the Action Plans developed under the National Roma Integration Strategy are not sufficiently funded and many Roma continue to live in poor housing conditions, often in areas with poor infrastructures, and are at risk of forced eviction, recommended the Bulgarian authorities to: *make specific budgetary provision for the implementation of the current national, regional and municipal strategies and action plans for the integration of Roma, and regularly evaluate and review the implementation of the various strategies and action plans, in close consultation with representatives of the Roma; and pursue and intensify efforts to address the socio-economic problems confronting persons belonging to minorities, particularly Roma, in fields such as housing, employment and health care*.

99. The Committee notes from another source that the housing for predominantly Roma communities is of significantly poorer quality than housing in communities which are predominantly ethnic Bulgarians or other ethnic groups. This housing situation has led to serious social exclusion, and is connected to other problems including: poor infrastructure (or the absence of infrastructure); poor transport links; low levels of access to public services (electricity, water supply, sewerage, street lighting, refuse); absence of official plans and opportunities for legal construction. The same source indicates that the living space per capita is significantly lower in Roma neighbourhoods than for the rest of the population. It is

reported that the average living space for a Roma family is approximately 10 square metres compared with almost 25 square metres for the ethnic Bulgarian population.

100. In the light of this information, the Committee invites the authorities to provide updated information on the results achieved in the implementation of the various projects in progress, with regard to ensuring adequate housing conditions and proper amenities for Roma. It also asks for up-to-date figures on the availability of social housing for Roma (supply and demand) as well as the number of Roma persons/families provided with social housing.

101. In the meantime, the Committee considers that the situation has not been brought into conformity with the Charter. It will again assess the situation on the basis of the information to be submitted by the authorities in October 2019.

(b) As to the lack of legal security of tenure and the non-respect of the conditions accompanying eviction of Roma families from sites or dwellings unlawfully occupied by them

102. The Committee notes that no information is provided by the Bulgarian authorities on the issues of legalising the housing of Roma and forced evictions.

103. The Committee notes that the Council of Europe Commissioner for Human Rights through a letter addressed to the Bulgarian authorities in January 2016 expressed concerns about the numerous reports of evictions of Roma families in different localities in the country and urged the authorities to stop forced evictions of Roma families without provision of adequate alternative accommodation. Likewise, the United Nations Committee on the Elimination of Racial Discrimination in its Concluding Observations on the combined twentieth to twenty-second reports of Bulgaria of May 2017 expressed concern about the prevalence of forced evictions disproportionately affecting Roma individuals, leading to homelessness.

104. The Committee also notes in another source that there are very limited possibilities to legalise housing, which remain unused by the proportion of Roma who might benefit. The same source mentions that in most areas, local administrations do not seek to inform or assist Roma to use procedures for legalisation of residential status, while Roma lack information on these procedures as well as confidence in law and state structures.

105. The Committee recalls that in its decision on the merits, it held that the situation constituted a violation of Article 16 taken in conjunction with Article E because Roma families were disproportionately affected by the legislation limiting the possibility of legalising illegal dwellings; and the evictions carried out did not satisfy the conditions required by the Charter, in particular that of ensuring persons evicted were not rendered homeless.

106. The Committee recalls that it is the responsibility of the state to ensure that evictions, when carried out, respect the dignity of the persons concerned even when they are illegal occupants, and that alternative accommodation or other compensatory measures are available (ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 56 and § 57). The Committee held that the law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during

winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided" (ERRC v. Italy, Complaint No. 27/2005, decision on the merits of 7 December 2005, § 41).

107. The Committee invites the authorities to provide in the next report information on:

- the situation (in law and in practice) on the legalisation of dwellings of Roma families;
- legislation and practice regarding the evictions of Roma, including updated information on the conditions and number of eviction procedures affecting Roma, legal remedies and compensation granted in case of such evictions.

108. The Committee considers that the situation has not been brought into conformity with the Charter as regards the lack of legal security of tenure and the non-respect of the conditions accompanying eviction of Roma families. The Committee will again assess the situation on the basis of the information to be submitted to it in October 2019.

Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008
Resolution CM/ResChS(2010)7

1. Decision of the Committee on the merits of the complaint

109. In its decision on the merits, the Committee concluded that there was a violation of Article 17§2 of the Charter on the ground that children with moderate, severe or profound intellectual disabilities residing in the homes for mentally disabled children (HMDC) did not have an effective right to education.

110. The Committee also held that the situation in Bulgaria constituted a violation of Article 17§2 of the Charter taken in conjunction with Article E because of the discrimination against children with moderate, severe or profound intellectual disabilities residing in HMDCs as a result of the low number of such children receiving any type of education when compared to other children.

2. Information provided by the Government

111. The Government indicates in the information registered on 31 October 2017 that several measures and plans have been adopted concerning the education of children with disabilities as described below.

112. The implementation of the Strategy for Equal Opportunities for Persons with Disabilities 2008-2015 continued in 2015. One of the Strategy's objectives consisted in ensuring access to quality education for persons with disabilities. According to information provided by the Ministry of Education and Science, the 28 Integrated Learning Resource Centres for Assistance to Children and Pupils with Special Educational Needs (SEN) provided more than 1 420 resource teachers, psychologists, logopedists, visual impairment specialists and hearing rehabilitators for children in the form of resource support for 13 082 children and pupils with special educational needs in the school year 2014-2015.

113. Following the ratification in 2012 of the UN Convention on the Rights of Persons with Disabilities, in 2015 a second Action Plan for implementing the Convention (2015-2020) was adopted. One of the key priorities for 2020 relates to 'ensuring equal access to inclusive education at all levels and opportunities for lifelong learning' and covers pre-school and school education as well as higher education. A series of measures were planned such as provision of resource teachers, specialists, pedagogical staff and their training.

114. The authorities indicate that by the Law on Pre-school and School Education which came into force on 1 August 2016, inclusive education became a priority of the education policy. An Ordinance on Inclusive Education which governs the public relations ensuring the inclusive education of children and pupils in the system of pre-school and school education as well as the activities of the institutions in this system entered into force on 11 November 2016. The Law on Pre-school and School Education regulates the education of children with "special educational needs", setting out how to provide support and access to education.

115. It is reported that by 31 December 2015, the first stage of the deinstitutionalisation process which had started in 2010 through the National Strategy "Vision for Deinstitutionalisation of Children in the Republic of Bulgaria" was completed by reducing the number of children accommodated in specialised institutions and by ensuring sustainability

of project activities in the newly established Family – type Centres for Disabled Children and Young People as a state-delegated activity (for not more than 15 persons). It is further mentioned that all 24 homes for children with disabilities were closed down and children were accommodated in family-type residential centres for children and young people with disabilities. Residential care providers seek partnership with the educational system to ensure successful integration of children and young people into school by placing them in appropriate forms of inclusive education.

116. The second phase of the deinstitutionalisation process was planned in 2016 and an updated Action Plan of this Strategy 2016-2020 was adopted. The elimination of institutional care for children is one of the main objectives of the new Plan. It is reported that in 2016, 138 Family-type Centres for Disabled Children and Young People with a capacity of 1 817 places and state-delegated activity functioned.

117. The authorities indicate that the systemic approach to providing care in a family environment or close to a family environment has led to a significant reduction in childcare facilities. By 31 December 2015, the number of homes for children in Bulgaria was 56. By 31 December 2016, the number of the homes for children in Bulgaria amounted to 40, of which: (i) 22 homes for children deprived of parental care (HCDPC) managed by the municipal authorities where by the end of 2016 the number of institutionally raised children was 409. Compared to 2015, the number of children in the HCDPC decreased by 108, which represents a decrease of 21%; and (ii) 18 Homes for Medico-Social Care for Children (HMSCC) managed by the Ministry of Health. By the end of 2016, the number of children in HMSCC was 580. Compared to 2015, the number of children in HMSCC decreased by 146 boys and girls.

118. The Law on the Integration of Persons with Disabilities (Article 16 pt. 2 and Article 17 pt. 2) provides for the creation of a supportive environment for integrated education of children with disabilities and the creation of resource centres for integrated education at the Ministry of Education and Science. It is reported that as of 31 December 2016, 57 auxiliary and special schools of the Ministry of Education and Science functioned in Bulgaria where 2 969 children were trained.

119. Information is provided also on relevant projects such as: (i) “Inclusive Education” for the implementation of which 84 pilot schools and 3 kindergartens in each of the 28 districts in the country were approved and multidisciplinary teams with psychologists, resource teachers, speech therapists, hearing-speech rehabilitators, teachers of visually impaired children, etc. were appointed depending on the needs of children and pupils; and (ii) the National Programme for Accessible and Secure School by which it is expected that equal access for disabled children will be ensured by building an accessible architectural environment as part of the necessary support for their training. In 2016, 26 public schools implemented measures to provide an accessible architectural environment and measures to ensure security were taken in 68 state schools.

3. Assessment of the follow-up

(a) Violation of Article 17§2 of the Charter

120. The Committee takes note of the legislation and measures that have been adopted with regard to the education of children with disabilities. According to the information provided by the authorities, all 24 homes for children with disabilities were closed down as part of the deinstitutionalisation process and children with disabilities were accommodated in Family-type Centres for Disabled Children and Young People.

121. The Committee notes that the information provided by the authorities refers to the desinstitutionalisation of homes for children in general. For example, in December 2016, there were still 40 homes with 409 children deprived of parental care (HCDPC) and 580 children in Homes for Medico-Social Care for Children (HMSCC). The information does not clarify whether children with moderate, severe or profound intellectual disabilities were among children accommodated in these 40 homes.

122. The Committee recalls that this case regarded the access to education of children with moderate, severe or profound intellectual disabilities living in homes for mentally disabled children (HMDC). The Committee understands that such HMDC were closed down in Bulgaria and they were replaced by Family-type Centres for Disabled Children and Young People. According to the Law on the Integration of Persons with Disabilities resource centres for integrated education at the Ministry of Education and Science should be created. Residential care providers seek partnership with the educational system to ensure successful integration of children and young people into school by placing them in appropriate forms of inclusive education.

123. The Committee recalls that 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. Mainstream educational institutions and curricula must be accessible in practice to children with intellectual disabilities. Schools need to be suited to meet the needs of children with intellectual disabilities i.e. teachers have to be trained sufficiently to teach intellectually disabled children and teaching materials have to be adequate (Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008, § 37, § 43 and § 44).

124. The Committee invites the authorities to provide in the next report information on:

- the situation in practice as well as data/statistics on the percentage of the intellectually disabled children living in Family-type Centres for Disabled Children and Young People or other types of accommodation which replaced the homes for mentally disabled children (HMDC) educated in mainstream schools and/or special schools;

- whether the mainstream schools/special schools are equipped in practice to suit the needs of intellectually disabled children – the situation in practice with regard to the training of teachers and other specialists involved in education and the teaching materials;

- measures taken to implement the policy of “inclusive education” and outcomes realised in case of children with moderate, severe or profound intellectual disabilities [residing in Family-type Centres for Disabled Children and Young People or other types of accommodation which replaced the homes for mentally disabled children (HMDC)]

125. The Committee notes the recent legislative reforms with regard to the education of children with special education needs and inclusive education. It also takes note of the action plans and projects (such as the “Inclusive Education”) developed in the field of education of children with intellectual disabilities. The Committee recalls that “the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not

merely theoretically, but also in fact" (International Commission of Jurists v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32). Therefore, the manner in which this legislation and these action plans are implemented is decisive (MDAC v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008, § 38). The Committee therefore asks information on the implementation in practice of the legislation and relevant projects/action plans on inclusive education in order to assess the effectiveness of the measures taken.

126. In the meantime, the Committee considers that the situation has not been brought into conformity with the Charter. The Committee will again assess the situation on the basis of the information to be submitted to it in October 2019.

(b) Violation of Article E taken in conjunction with Article 17§2 of the Charter

127. The Committee recalls that it held that the situation in Bulgaria constituted a violation of Article 17§2 of the Charter taken in conjunction with Article E because of the discrimination against children with moderate, severe or profound intellectual disabilities residing in HMDCs as a result of the low number of such children receiving any type of education when compared to other children.

128. The Committee invites the authorities to provide in the next report updated information on the percentage of children with moderate, severe or profound intellectual disabilities (living in Family-type Centres for Disabled Children and Young People or other types of accommodation which replaced the homes for mentally disabled children) who are educated in mainstream schools and special schools and the percentage of all other children who have access to education.

129. The Committee considers that the situation has not been brought into conformity with the Charter. The Committee will again assess the situation on the basis of the information to be submitted to it in October 2019.

European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008
Resolution CM/ResChS(2010)1

1. Decision of the Committee on the merits of the complaint

130. The Committee concluded that there was a violation of Article 13§1 of the Charter on the ground that the measures adopted by the Government did not sufficiently ensure health care for poor or socially vulnerable persons who became sick.

131. The Committee also concluded that there was a violation of Article 11§§1, 2 and 3 in conjunction with Article E of the Charter on the ground that there was a failure of the authorities to take appropriate measures to address the exclusion, marginalization and environmental hazards which Roma communities were exposed to in Bulgaria, as well as the problems encountered by many Roma in accessing health care services.

2. Information provided by the Government

132. The Government indicates in the information registered on 31 October 2017 that several measures have been taken to improve the medical services for vulnerable groups, including Roma. The information mentions that the activities and priorities set in the Health Strategy for disadvantaged persons who belong to ethnic minorities (2005-2015) are included in section “Healthcare” of the National Roma Integration Strategy 2012-2020 and the Action Plan. In the framework of this Action Plan, the Ministry of Health annually allocated funds for carrying out prophylactic examinations and tests in Roma settlements using 23 mobile examination rooms. During the period 2014-2016, 38,404 examinations and tests have been carried out in such mobile rooms (compared to 60,164 during 2010-2013). The examinations are accompanied by lectures and campaigns on contraceptives and sexually transmitted diseases, healthy eating habits, smoking, immunisation, health and environment.

133. The information also mentions the activities carried out by the health mediators, who are in charge of overcoming the cultural barriers in communication between Roma communities and the medical personnel in various locations. The network of health mediators expanded from 150 health mediators in 2014 to 195 health mediators in 2016.

134. The information describes the activities performed under two programmes funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria, namely (i) “Prevention and control of HIV/AIDS” and (ii) “Strengthening the National Tuberculosis Programme”. For example, results of the implementation of the first programme show that in 2016, 6,368 representatives of the Roma community were reached with HIV prevention services and services for raising awareness of disease prevention. Health education materials and condoms were distributed in the Roma community through this programme. Tuberculosis prevention and control activities were implemented through the “Strengthening the National Tuberculosis Programme” and results show that in 2016, 14,477 individuals were screened for the risk of tuberculosis; over 2,103 high-risk individuals were referred to and/or accompanied to healthcare establishments; a total of 19,575 clients were reached with services, including educational activities and individual counseling and over 20,193 health education and information materials were distributed.

135. With regard to maternal and child care, it is reported that activities were carried out under the National Programme for the Improvement of Maternal and Child Health 2014-2020. The health services provided under this Programme are paid by the Ministry of Health budget and are accessible to all citizens regardless of their health insurance status. From September 2015 to December 2016 – 60,051 examinations were carried out. The information does not specify how many Roma

136. The authorities indicate that through the Programme BG 07 Public Health Initiatives Programme, which aims to improve access to and quality of health services, including reproductive health and prevention, several projects were developed on prevention of sexual and reproductive health of adolescents aged 10 to 19, accessible health services for pregnant women, women who have recently given birth and children up to 3 years of age from groups at risk, providing home visits to pregnant women and children up to 3 years of age. Statistics show that the share of Roma women and children involved in these projects varied between 40% and 70%.

3. Assessment of the follow-up

a) Violation of Article 13§1 of the Charter

137. The Committee recalls that Article 13§1 of the Charter provides that persons without adequate resources, in the event of sickness, should be granted financial assistance for the purpose of obtaining medical care or provided with such care free of charge European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008, § 44).

138. The Committee noted previously that the Health Insurance Act links eligibility for 'non-contributory' state health coverage to being a recipient of social assistance benefits and that the types of medical services available to all citizens outside the scope of mandatory health insurance were mainly confined to emergency care and obstetrical care for women (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008, § 43). It also noted that the scope of Decree No. 17 of 31 January 2007 was limited to covering expenses for hospital treatment and did not include primary or specialised outpatient medical care that such persons might require (Conclusions 2009, Bulgaria, Article 13§1).

139. As the information provided by the authorities does not indicate new elements clearly establishing that persons not receiving social assistance are entitled to medical assistance, other than emergency care, obstetrical and hospital treatment, the Committee considers that the situation has not been brought into conformity with Article 13§1 the Charter.

b) Violation of Article E taken in conjunction with Articles 11§§1, 2 and 3

140. With regard to health education, the Committee notes as a positive development that the network of health mediators has expanded. The authorities acknowledge that there is a need to increase the number of health mediators as they contribute to improving awareness and access to health and social services of Roma, overcoming cultural barriers in communication between the Roma population and local medical staff and overcoming existing discriminatory attitudes in the field of health services for the Roma on the ground. The Committee asks to be kept informed on the progress done by the health mediators and the impact of their activities on improving the health situation of Roma population.

141. The Committee notes that in its Resolution CM/ResCMN(2018)2 of 7 February 2018 on the implementation of the Framework Convention for the Protection of National Minorities

by Bulgaria, the Committee of Ministers of the Council of Europe expressed concerns that the overall health status of Roma is significantly lower than that of the rest of the population and recommended to the Bulgarian authorities to pursue and intensify efforts to address the socio-economic problems confronting persons belonging to minorities, particularly Roma, in fields such as housing, employment and health care.

142. The Committee notes from a Report on the health status of the Roma population prepared by the European Commission that (i) comparatively higher rates of infant mortality among Roma have been observed in Bulgaria, (ii) Roma in Bulgaria are especially vulnerable to outbreaks of measles and hepatitis A, B, and C, (iii) Roma children are without complete mandatory vaccinations and (iv) the poor housing condition of Roma with overcrowding is a known risk factor for the spread of infectious diseases.

143. Other reports, such as the FRA's LERI research in Pavlikeni, have identified as main challenges for the poor access and the quality of health care services for Roma the following: the lack of health insurance as many Roma use only the emergency services; service providers – such as general practitioners, doctors – often request informal additional payment; most Roma women have not undergone gynaecological screening and, as a result, many of them may be suffering from gynaecological conditions; preventive healthcare habits in the Roma community are not widespread, mainly due to not visiting doctors but also to certain hygiene practices.

144. The Committee invites the authorities to provide updated information and data on the measures taken by the authorities with regard to:

- measures to ensure effective access of Roma population to health care services;

- concrete campaigns/activities on health education and awareness raising activities specifically targeting the health behaviours of Roma (on topics like sexual and reproductive health, prevention of sexually transmitted diseases, healthy diet and physical activities, smoking, alcohol and drugs, health and environment);

- updated information on monitoring and screening the health status of Roma pregnant women and children;

- information on screening available to Roma for diseases that constitute the principal causes of death (e.g. cancer);

- measures to prevent and to cope with infectious diseases/ epidemics among Roma and vaccines available for Roma children (including the coverage rates);

- measures to overcome environmental hazards which Romani communities are exposed to, namely measures to improve the living conditions in Roma neighbourhoods, related to, for example, clean water supply, electricity supply, sewerage, garbage collection.

145. In the meanwhile, the Committee considers that the situation has not been brought into conformity with the Charter. The Committee will again assess the situation on the basis of the information to be submitted to it in October 2019.

FINLAND

FINLAND

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Finland was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- Association of Care Giving Relatives and Friends v. Finland, Complaint No. 70/2011, decision on the merits of 4 December 2012
- Association of Care Giving Relatives and Friends v. Finland, Complaint No. 71/201, decision on the merits of 4 December 2012
- Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision of 9 September 2014
- Finnish Society of Social Rights v. Finland, Complaint No. 106/2014, decision on the merits of 8 September 2016
- Finnish Society of Social Rights v. Finland, Complaint No. 108/2014, decision on the merits of 8 December 2016

The Central Association of Carers in Finland v. Finland, Complaint No. 70/2011, decision on the merits of 4 December 2012
Resolution CM/ResChS(2013)12

1. Decision of the Committee on the merits of the complaint

146. The Committee concluded that there was a violation of Article 23 of the Charter on the ground that the legislation allowed practices that led to a part of the elderly population being denied access to informal care allowances or other alternative support.

2. Information provided by the Government

147. The Government refers to the information provided in its previous report on the follow-up to this decision. It is further stated that one of the key projects of the Sipilä Government Programme focuses on informal care. Between 2016 and 2018 home care for older people will be developed and informal care enhanced in all age groups. A total of €27 million has been allocated for the project. The aim is to create a cost-effective and well-coordinated system of services for older persons that is responsive to client needs. In the new system, home services and services accessible from home take priority. The project also aims to improve the well-being of informal caregivers, family carers and the persons they are caring for.

148. The aforementioned project will be implemented in all 18 counties. There are eight large county-wide pilot projects to reform the services. A number of different players, including municipalities and non-governmental organisations, will participate in each pilot project. While informal care is the cross-cutting theme in all the pilot projects, one theme for which €3 million has been allocated focuses on informal care specifically. This theme will aim to harness existing best practices developed for the benefit of informal and family care and to create a uniform efficient network of informal caregivers and patients and operators in the public, private and third sectors.

149. The Government also refers to amendments to the Informal Care Act (937/2005) which entered into force in 2016. The amendments are part of the implementation of the Government Programme to develop informal care. Their aim is to improve the opportunities of informal caregivers to take time off and, thereby, support their well-being as caregivers. The right to statutory time off in the Informal Care Act has been extended to cover all informal caregivers who have an informal caregiver's contract. Another amendment to the Informal Care Act concerns the municipalities' obligation to arrange, where necessary, informal caregivers' access to health and well-being examinations and healthcare and social services promoting their well-being.

150. In 2017, the Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities issued a new quality recommendation to guarantee a good quality of life and improved services for older persons (6/2017). The recommendation is meant to support the implementation of the Act on Care Services for Older Persons, encourages the building of an economically and socially sustainable service system and aims to guarantee, in so far as possible, the good health and functional capacity of the older population.

151. Finally, the Government refers to a National Institute for Health and Welfare (THL) review published in 2015 of the fees paid to caregivers and the services available to them in the municipalities. The review indicates that informal care often replaces institutional care: without informal care at home, some 26% to 46% of the persons reviewed would have ended up in institutional care. While the need for care was often great in informal care, only around half of the informal caregivers used their statutory time off. The review also indicates that it would be important for many informal caregivers, if there were more services available to them, including health examinations and rehabilitation services.

3. Assessment of the follow-up

152. The Committee notes that the development of informal care is a priority for the Finnish Government and that pilot projects on this theme are being implemented throughout the country's 18 counties over the period 2016-2018. There is however no indication to what the extent the more than 300 municipalities will be involved in and benefit directly from these pilot projects.

153. The Committee also notes that amendments to the Informal Care Act entered into force in 2016, notably in order to improve the opportunities of informal caregivers to take time off. In this respect it notes the 2015 THL review which indicated that only around half of the informal caregivers used their statutory time off.

154. While noting the information provided by the Government, the Committee also observes the lack of specific information on informal care allowances and their availability across municipalities. The Committee does not see it demonstrated that the extent of discretion of the municipalities combined with the lack of any clear obligation to provide an allowance to informal carers or any alternative service for the elderly (see §59 of the decision on the merits), which in its view led to an unsatisfactory overall situation in the municipalities, has been decisively addressed in the follow-up to the decision.

155. The Committee invites the Government to submit up-dated information on the situation with respect to informal care allowances as well as on the impact of the above-mentioned pilot projects and legislative amendments in the next report due in October 2019.

156. Meanwhile, the Committee considers that the situation has not been brought into conformity with Article 23 of the Charter.

The Central Association of Carers in Finland v. Finland, Complaint No. 71/201, decision on the merits of 4 December 2012
Resolution CM/ResChS(2013)13

1. Decision of the Committee on the merits of the complaint

157. The Committee concluded that there was a violation of Article 23 of the Charter on the ground that insufficient regulation of fees for service housing and service housing with 24-hour assistance combined with the fact that the demand for these services exceeded supply:

- created legal uncertainties to elderly persons in need of care due to diverse and complex fee policies. While municipalities may adjust the fees, there are no effective safeguards to assure that effective access to services is guaranteed to every elderly person in need of services required by their condition;

- constituted an obstacle to the right to "the provision of information about services and facilities available for elderly persons and their opportunities to make use of them" as guaranteed by Article 23b of the Charter.

2. Information provided by the Government

158. The Government refers to the information provided in its previous report on the follow-up to this decision and in particular on the working group on client fees for service housing and services provided at home, which delivered its final report to the Ministry of Social Affairs and Health on 30 January 2015.

159. The assignment of the working group was based on the previous Government Programme, which stated that the development of the client charge system will continue in order to prevent healthcare and social welfare payments from becoming an obstacle to service use. According to that Government Programme, service housing charges should be revised on the basis of the working group's proposals, laying down provisions for nationally harmonised criteria for client charges in the housing services which municipalities are responsible for organising. Charges for service housing with 24-hour assistance should be harmonised, and provisions should be laid down ensuring that clients have funds at their disposal even after paying their service fees. The working group gave also suggestions for further measures. According to the working group, there is a need for an overhaul of legislation governing client fees. It should take into account the ongoing reforms on the organisation and financing of healthcare and social welfare as well as future reforms on other legislation on healthcare and social welfare. The working group's proposals did not, however, lead to any action by the previous Government.

160. In April 2016, the Sipilä Government decided to start a comprehensive review of the legislation governing client charges in healthcare and social welfare in spring 2017. A working group was appointed for this purpose on 15 February 2017 and assigned the task of drafting a proposal for new legislation governing client charges. A Government Bill for new legislation governing client fees would be submitted to Parliament with a view to entering into force on 1 January 2020. According to the Government, the reform and the relevant legislation would not introduce any unreasonable increases in client fees.

3. Assessment of the follow-up

161. The Committee takes note that the proposals of the working group on client fees for service housing did not lead to any action and that the Government has now decided to start a comprehensive review of the legislation governing client charges in healthcare and social welfare. A new working group was established in February 2017 and tasked with drafting a proposal for new legislation governing client fees to enter into force by 2020.

162. The Committee also notes the comments submitted by the Central Organisation of Finnish Trade Unions (SAK), the Finnish Confederation of Professionals (STTK) and the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) according to which there is still no legislative guarantees that clients in service housing will have funds available after paying their client fees.

163. The Committee asks the Government to provide up-dated information on any developments in the report due in October 2019. Meanwhile, as the legislative and regulatory situation has not changed, the Committee considers that the situation has not been brought into conformity with the Charter.

Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision of 9 September 2014
Resolution CM/ResChS(2015)8

1. Decision of the Committee on the merits of the complaint

164. The Committee concluded that there was a violation of Article 12§1 as the minimum level of several social security benefits (sickness benefits, maternity benefits, rehabilitation benefits, basic unemployment allowance and the guarantee pension) was manifestly inadequate and of Article 13§1 as the level of social assistance benefits and the labour market subsidy was not adequate.

2. Information provided by the Government

165. The report states that in its budget session in August 2017 the Government agreed on measures to support families with children and measures to prevent social exclusion. Minimum daily allowances under the Health Insurance Act (parenthood allowance, rehabilitation allowance and sickness allowance) would be increased so that they would always be high enough that recipients would have sufficient income without having to resort to basic social assistance. The aim was that these legislative amendments would enter into force on 1 January 2018.

166. As regards unemployment allowance and labour market support (subsidy), the report states that the Government has focused on measures to increase employment and to shorten unemployment periods instead of addressing the level of benefits. One of the measures implemented is to allow unemployed jobseekers to earn €300 on top of the full unemployment benefit. Mention is also made of measures to encourage recipient of labour market support to participate in training activities.

167. With respect to social assistance the report states that the granting of basic social assistance was transferred from from the municipalities to the national Social Insurance Institution (Kela) as from 2017. It also states that the basic amount is adjusted annually by the national pension index.

168. The guarantee pension rate was raised as of 1 January 2016 to €766.85 per month, however due to an index adjustment it was lowered to €760.26 in 2017.

169. Finally, the report refers to the basic income experiment carried out in 2017 and 2018 whereby a basic income of €560 was paid out to a random sample of persons receiving labour market support. The basic income is a tax free benefit unaffected by the recipient's other income.

3. Assessment of the follow-up

170. The Committee notes the Government’s intention to increase minimum daily allowances under the Health Insurance Act to a level high enough to ensure that recipients would not have to resort to basic social assistance. The Committee asks to receive information on developments in this respect in the next report due in October 2017

171. With respect to unemployment allowance and the labour market subsidy, the Committee understands that no action has been taken to give follow-up to the decision on the merits concerning the level of these benefits, but that the Government's focus has been on increasing employment. The guarantee pension was raised slightly in 2016, but then lowered again in 2017.

172. The Committee takes due note of the Government's statement that the Finnish social security system is complex with different components which in different combinations aim at providing necessary assistance in particular and attention therefore must paid to how the different benefits combine. The Committee invites the Government to provide information in future reports, including typical examples of different categories of recipients, demonstrating that the main benefits at stake when combined with other supplementary benefits reach a level which is adequate in the meaning of Article 12 and Article 13, respectively.

173. With respect to the basic income experiment referred to by the Government, the Committee notes from another source (https://www.kela.fi/web/en/-/contrary-to-reports-the-basic-income-experiment-in-finland-will-continue-until-the-end-of-2018) that there are currently no plans to continue or expand the experiment after 2018.

174. According to the comments submitted by the Central Organisation of Finnish Trade Unions (SAK), the Finnish Confederation of Professionals (STTK) and the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA), in 2017, indexes were frozen for, for instance for national pensions, unemployment benefits, survivors' pensions, front-veteran's supplements and disability benefits. As a result, the purchasing power of these benefits will decline during the next two years. Moreover, the activation model for unemployment security to take effect at the beginning of 2018 will cut the unemployment benefit by about 5%, if the beneficiary fails to find employment within 65 days. The housing allowance is now adjusted according to income more strictly than before.

175. SAK, STTK and AKAVA also state that the transfer from the municipalities to Kela of the granting of basic social assistance has led to problems with the processing of applications and with payments of social assistance. As a result, many people were deprived of basic social assistance and had no means to pay for medicines, housing and basic living costs.

176. In view of the above, the Committee considers that the situation has not been brought into conformity with the Charter.

Finnish Society of Social Rights v. Finland, Complaint No. 106/2014, decision on the merits of 8 September 2016
Resolution CM/ResChS (2017)7

1. Decision of the Committee on the merits of the complaint

177. The Committee concluded that there was a violation of Article 24 of the Charter on the grounds that

- the upper limit on compensation in cases of unlawful dismissal provided for by the Employment Contracts Act may result in situations where the compensation awarded is not commensurate with the loss suffered;
- under Finnish legislation reinstatement is not made available as a possible remedy in cases of unlawful dismissal.

2. Information provided by the Government

178. The report states firstly that the legislation concerning unlawful dismissal reflects a tripartite consensus in Finland between the Government and the two sides of industry. Then, as regards the upper limit on compensation the report maintains that the sums provided for are sufficient and are also conducive to ensuring compliance with the legislation. The report also recalls that the legislation sets a lower limit for compensation and that both material and immaterial damages incurred by the employee are covered and that possible future financial losses by the employee must be taken into account. Finally, the report emphasises that a dismissed employee is not deprived of economic security, but is covered by the unemployment security system.

179. With respect to reinstatement the report reiterates that a previously existing provision in legislation which enabled reinstatement had been repealed in 2001, as the provision was problematic to apply in practice. The report further states the view that practical matters should be given significance when interpreting Article 24 and that Finland cannot be expected to enact legislation that, on the basis of earlier experience from many decades, will not work in practice.

3. Assessment of the follow-up

180. The Committee notes that the report reiterates information and arguments presented previously during the complaints proceedings before the Committee and in the resolution adopted by the Committee of Ministers. There is no indication of any measures taken to give follow-up to the decision on the merits, both as regards compensation and reinstatement.

181. The Committee takes note of the comments of the Federation of Finnish Enterprises (FFE) which concur with the Government.

182. Consequently, the Committee considers that the situation has not been brought into conformity with the Charter. It will again assess the situation on the basis of the next report due in October 2019.

Finnish Society of Social Rights v. Finland, Complaint No. 108/2014, decision on the merits of 8 December 2016
Resolution CM/ResChS(2017)8

1. Decision of the Committee on the merits of the complaint

183. The Committee concluded that there was a violation of Article 13§1 of the Charter on the ground that the level of the labour market subsidy, even in its combination with other benefits such as housing allowance and social assistance to cover excess housing cost, was not sufficient to enable its beneficiaries to meet their basic needs.

2. Information provided by the Government

184. The report firstly refers to the information provided concerning Finnish Society of Social Rights v. Finland, Complaint No. 88/2012 and recalls that in Finland, social security is provided by a comprehensive social security system that consists of variety of complementary monetary benefits, such as labour market subsidy, housing allowance and social assistance. It is emphasised that the Finnish social security system covers the entire population and ensures individual subsistence and a life of dignity including elderly unemployed persons who are outside the labour market.

185. The report further refers to OECD calculations according to which the relative level of minimum-income benefit in Finland is higher than in most other countries. The report asserts that the Committee based its decision exclusively on labour market subsidy and an average amount of housing allowance. According to the report, viewing labour market subsidy alone or only in combination with the housing allowance is too limited. Particularly, as many labour market subsidy recipients also receive both a housing benefit and income support. Housing allowance recipients can also receive social assistance for remaining housing and other living costs, if his/her combined income is not sufficient despite receiving social assistance, to secure means necessary for basic needs.

186. The system of general housing allowance was reformed as of 1 January 2015. The maximum income limits for housing allowance were adjusted by removing the effect of size, age, equipment level and heating system of the residence. The only factors affecting the maximum income limits at present are location and number of household members. The definition of the earnings deduction was also simplified and the regional grading of the deductible was abandoned. Moreover, the maximum income limit was increased by €50, and the deductible decreased by 8%. To lower the threshold for accepting work, the level of earned income and entrepreneurial income affecting the amount of housing allowance was lowered by €300 as of 1 September 2015. This corresponds to the unemployment security system, where unemployed jobseekers can earn €300 per month on top of the full unemployment benefit.

3. Assessment of the follow-up

187. The Committee refers to its assessment in respect of Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision of 9 September 2014 concerning the labour market subsidy, as well as to the comments of the Central Organisation of Finnish Trade Unions (SAK), the Finnish Confederation of Professionals (STTK) and the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA).

188. The Committee considers for the same reasons that the situation has not been brought into conformity with the Charter. It has not been demonstrated that action has been taken to bring the labour market subsidy to an adequate level whether alone or in combination with the housing allowance, nor has it been shown with any degree of precision that the effect of possible supplementary social assistance benefits, such as housing benefit and income support, is sufficient to decisively improve the situation for all the recipients of labour market subsidy concerned.

189. The Committee will again assess the situation on the basis of the next report due in October 2019.

FRANCE

FRANCE

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, France was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003;

- European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, decision on the merits of 11 September 2013;

- Association for the Protection of All Children (APPROACH) Ltd v. France, Complaint No. 92/2013, decision on the merits of 12 September 2014 ;

- International Movement ATD Fourth World (ATD) v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007

- European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007

- European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009

- Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 63/2010, decision on the merits of 28 June 2011

- European Roma and Travellers Forum v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012

- *Médecins du Monde – International* v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012

- *Conseil européen des Syndicats de Police* (CESP) v. France, Complaint n° 38/2006, decision on the merits of 3 December 2007

- *Conseil européen des Syndicats de Police* (CESP) v. France, Complaint n° 57/2009, decision on the merits of 1 December 2010.

- *Conseil européen des Syndicats de Police* (CESP) c. France, Complaint n° 68/2011, decision on the merits of 23 October 2012.

- *Conseil européen des syndicats de police* (CESP) v. France, n°101/2013, decision on the merits of 27 January 2016

- *Syndicat national des Professions du tourisme* v. France, complaint No. 6/1999, decision on the merits of 10 October 2000

The Committee's assessments appear below. (They also appear in the HUDOC database.)

The Committee finds that the situation has been brought into conformity in respect of the following finding of violation:

- *Syndicat national des Professions du tourisme* v. France, complaint No. 6/1999, decision on the merits of 10 October 2000

Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003
Resolution ResChS(2004)1

European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, decision on the merits of 11 September 2013
Resolution ResChS(2014)2

1. Decisions of the Committee on the merits of the complaint

190. Both these decisions concern the right of autistic children to inclusive education and the difficulties that young autistic adults face in gaining access to vocational training. The Committee has therefore decided to assess jointly the measures taken in the context of the follow-up to these decisions.

Autism-Europe v. France (No. 13/2002)

191. The case of Autism-Europe v. France (Complaint No. 13/2002) concerned violations of Articles 15§1 and 17§1, taken alone or in conjunction with Article E, on the grounds that:

- the proportion of children with autism being educated in either general or specialist schools was extremely low and much lower than in the case of other children, whether or not disabled;

- there was a chronic shortage of care and support facilities for autistic adults.

European Action of the Disabled (AEH) v. France (No. 81/2012)

192. The case of European Action of the Disabled (AEH) v. France (Complaint No. 81/2012) concerned violations of the right of children and adolescents with autism to be educated as a priority in mainstream schools and the right of young people with autism to vocational training (Article 15§1 of the Charter).

193. The decision also concerned direct discrimination against families with no choice other than to go abroad for the schooling of their children with autism and the limited funds available under the Autism Plan for the education of children and adolescents with autism, which indirectly disadvantages these persons with disabilities (violations of Article E taken in conjunction with Article 15§1).

2. Information provided by the Government

194. The French authorities state that the number of pupils with autism spectrum disorders (ASD) being educated in schools has increased significantly. According to the results of a survey on pupils with a disability for the year 2016-2017, 32 810 pupils with ASD are being educated in public or private primary or secondary schools.

195. During the 2016-2017 school year, 50 new teaching units (TUs) were put in place in kindergartens to facilitate the schooling of children with ASD or pervasive developmental disorders based on "early, personalised, comprehensive and co-ordinated intervention, as recommended by the National Health Authority", in the words of the ministry.

196. Since 2013, and the Framework Law on School Reform, education is founded on the principle of inclusive schooling for all the children, without any distinction. Mainstream education is thereby given priority.

197. In order to provide the most appropriate response to the needs of pupils with ASD, the Autism Plan aims to propose, for all age groups, assessed and monitored forms of intervention, entailing increased co-operation between the research, health, medico-social and education sectors and the implementation of a new type of governance which fully involves the individuals themselves and their families.

198. Three autism plans (2005-2007, 2008-2010 and 2013-2017) have given rise to tangible measures, in conformity with the good practice recommendations. The authorities state that the third autism plan made it possible to establish 112 TUs in kindergartens, each catering on average for seven full time pupils, in order to facilitate the inclusive schooling of these children from their early childhood. These teaching units are a way of schooling pupils of kindergarten age (3/6 years) with autism spectrum disorder, who are directed towards a school or a medico-social service and educated in its teaching unit, set up within the mainstream education system. These pupils attend school at the same time as pupils in their age group and, in a given time and space, benefit from pedagogical, educational and therapeutic interventions which refer to the good practice recommendations made by the National Health Authority (NHA) and the National Agency for the Evaluation of Welfare and Medical Facilities and Services (ANESM) – in particular the recommended structured comprehensive approaches. These interventions are carried out by a team made up of teachers and medico-social professionals, whose actions are co-ordinated and supervised.

199. 110 posts for primary level teachers were allocated to local education authorities to facilitate the establishment of teaching units in kindergartens, as provided for in the context of the 3rd autism plan, covering the period 2013-2017, i.e. 30 at the beginning of the 2014 school year, 30 at the beginning of the 2015 school year and 50 at the beginning of the 2016 school year.

200. A 4th autism plan has just been launched with the aim of developing more ambitious measures to improve identification, detection, diagnosis and support for autistic persons and to foster their inclusion.

3. Assessment of the follow-up

201. The Committee had already taken note of the information provided in the 2014 report on the 2005-2007, 2008-2010 and 2013-2017 autism plans. It notes the launching of the 4th autism plan and, in particular, the budget allocated to the schooling of young children with autism. The plan will receive 344 million euros over a period of five years (2018-2022), for improving autism research, detection and care, compared with the sum of 205 million euros allocated to the previous plan (2013-2017).

202. In these decisions, the Committee stressed that Article 15§1 of the Charter does not leave States parties a wide margin of appreciation when it comes to choosing the type of school in which they will promote the independence, inclusion and participation of persons with disabilities, as this must clearly be a mainstream school. The Committee points out that inclusive education entails the provision of support and reasonable accommodation which persons with disabilities may rightfully expect in order to effectively access schools. Such reasonable accommodation relates to the individual and helps to remedy factual inequalities.

203. The Committee invites the authorities to provide, in the next report, information on:

- the conditions laid down by the legislation in force for access to mainstream education;
- the percentage of children with autism enrolled in mainstream and special education schools;

- the number of children with autism exempt from compulsory schooling and who receive no education;
- the effective remedy afforded against refusal to enrol children with autism in mainstream education;
- the concrete measures taken to guarantee the right to vocational training of young people with autism.

204. The Committee considers that the situation has not yet been brought into conformity with the Charter in the two pending decisions before it.

205. It will next examine the situation on the basis of the information to be submitted in October 2019.

Association for the Protection of All Children (APPROACH) Ltd v. France, Complaint No. 92/2013, decision on the merits of 12 September 2014
Resolution CM/ResChS(2015)6

1. Decision of the Committee on the merits of the complaint

206. The European Committee of Social Rights concluded that there was a violation of Article 17§1 of the Charter owing to the lack of a sufficiently clear, binding and precise prohibition on corporal punishment in French law. The Committee noted that the relevant provisions of the Criminal Code prohibit serious acts of violence against children and that national courts will punish corporal punishment when it reaches a given level of seriousness. However, none of the legislation referred to by the government sets out an express and full prohibition on all forms of corporal punishment of children that is likely to affect their physical integrity, dignity, development or psychological well-being. Furthermore, it is unclear whether there is still a judicially recognised "right of correction", and there is no clear and detailed case-law fully prohibiting the practice of corporal punishment.

2. Information provided by the Government

207. The authorities assert that France has adopted criminal legislation prohibiting and severely punishing any type of violence against minors.

208. They also point out that all types of violence, including psychological violence (Article 222-14-3 of the Criminal Code) are included in and punished by the Criminal Code, and that the penalties incurred vary according to the effects of the offences on victims, but also according to the number of aggravating circumstances (Article 221-1 to 221-5-5 (deliberate harm to life) and 222-1 to 222-18-3 (wilful attacks on the physical integrity of the person).

209. If the victim is a minor under 15, the violence is habitual, the offences are committed at school or the perpetrator is an ascendant or a person with legal or de facto authority over the victim, these are all aggravating circumstances. The offence of violence is moreover deemed to have been committed regardless of the perpetrator's motives as the alleged educational purpose of the violence is irrelevant.

210. In addition, Law No. 2014-873 of 4 August 2014 on genuine gender equality established a general offence of harassment punishable by one year's imprisonment and a fine of €15 000 (Article 222-33-2-2 of the Criminal Code), and the penalties are increased when the victim is a minor under 15.

211. It is noted that ritual initiation (bizutage) ceremonies, which are understood to be acts of inducing another person, willingly or not, to be subjected to or commit degrading or humiliating acts in school or in a socio-educational institution, are also punished by French law (Article 225-16-1 of the Criminal Code).

212. Acts of neglect can also constitute criminal offences. These include neglecting persons who are incapable of protecting themselves (Article 223-3 of the Criminal Code), particularly owing to their age (Article 227-1, on neglecting a minor under 15, anywhere), denying care and food to a minor by a parent or a person with authority over the child (Article 227-15), and parents evading their legal obligations to the point that this compromises the health, security, morality or education of their minor child (Article 227-17).

3. Assessment of the follow-up

213. The Committee takes note of all the progress made by the authorities to bring the situation into conformity with Article 17§1 of the Charter, which requires a sufficiently clear, binding and precise prohibition on corporal punishment against children in all circumstances, that is likely to affect their physical integrity, dignity, development or psychological well-being.

214. In this respect, it notes that on 29 November 2018, a bill was voted by the French National Assembly to amend Article 371-1 of the Civil Code and prohibit the imposition of "corporal punishment, mental anguish or any other form of humiliation on one's own child" and invites the authorities to keep it informed about the adoption of this new draft law.

215. The Committee holds that the situation has not been brought into conformity with the Charter.

216. It will again examine the situation on the basis of the information to be submitted in October 2019.

International Movement ATD Fourth World (ATD) v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007
Resolution CM/ResChS(2008)7

European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007
Resolution CM/ResChS(2008)8

European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009
Resolution CM/ResChS(2010)5

Centre on Housing Rights and Evictions (COHRE) v. France, Complaint No. 63/2010, decision on the merits of 28 June 2011
Resolution CM/ResChS(2011)9

European Roma and Travellers Forum v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012
Resolution CM/ResChS(2013)1

***Médecins du Monde – International* v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012**
Resolution CM/ResChS(2013)6

1. **Decisions of the Committee on the merits of the complaint:**

217. All these decisions relate to similar breaches of the social and economic rights of migrant Roma and Travellers. The Committee therefore has decided to assess jointly the measures taken in the context of the follow-up to these decisions. The document in the Appendix (pages 37 and 38) contains an overview of the violations found by the European Committee of Social Rights in each decision referred to above.

218. In particular, these decisions relate to several violations of Article 31 taken alone or Article E in conjunction with Articles 31, 16 and 19§4.c on the following grounds:

- excessively limited access to housing of an adequate standard and degrading housing conditions; inadequate implementation of the legislation on stopping places for Travellers (Article 31§1);
- inadequate procedure for eviction (Article 31§2);
- a lack of sufficient measures to provide emergency accommodation and reduce homelessness (Article 31§2);
- insufficient supply of accessible social housing (Article 31§3).

219. These decisions also relate to:

- a lack of sufficient measures to provide housing to families of migrant Roma (violation of Article E taken in conjunction with Article 16);
- no co-ordinated approach to promoting effective access to housing (violation of Article E taken in conjunction with Article 30);
- breaches inherent in the expulsion procedure for migrant Roma of Romanian and Bulgarian origin (violation of Article E taken in conjunction with Article 19§8);
- inaccessibility of the French education system for Roma children of Romanian and Bulgarian origin (violation of Article E taken in conjunction with Article 17§2);

- difficulties with access to health care for all persons whatever their residence status (violation of Article E taken in conjunction with Article 11§1);
- a lack of information, awareness-raising, and health counselling and screening (violation of Article E taken in conjunction with Article 11§2);
- a lack of disease and accident prevention measures (violation of Article E taken in conjunction with Article 11§3);
- a lack of medical assistance for migrant Roma lawfully resident or working regularly in France for more or less than three months (violation of Article E taken in conjunction with Article 13§§1 and 4).

220. In addition, the decision in Centre on Housing Rights and Evictions (COHRE) v. France (Complaint No. 63/2010) related to an aggravated violation of Article E taken in conjunction with Article 31§2 because the conditions in which the forced evictions of Roma camps had taken place in the summer of 2010 were incompatible with human dignity.

221. Lastly, the decision in European Roma Rights Centre (ERRC) v. France (Complaint No. 51/2008) related to the qualification period of three years' attachment to a municipality to be entitled to vote and the effect of the 3% quota on Travellers' voting rights (violation of Article E taken in conjunction with Article 30).

2. Information provided by the Government

The right to housing

Access to housing of an adequate standard (violation of Article 31§1)

222. In response to the decisions referred to above, the French authorities stated, in the report submitted on 29 November 2017, that tangible results have been achieved in the housing field, particularly the following:

- the provision of 6 000 places in general shelters and in special-needs housing; 2 413 places through social intermediation arrangements with landlords; 621 places in social housing, including boarding houses; 3 263 places in emergency accommodation; and 12 000 accommodation places specifically for asylum seekers in 2016;
- a 360° analysis "from homelessness to housing problems" carried out in 79 *départements*, making it easier to assess people's needs;
- 124 226 subsidised social housing units in 2016 (14.1% overall increase in the level of financing compared with 2015). In subsidised accommodation, the percentage of small dwellings (studios and one-bedroom flats), for which demand is highest, was 42.8 % in 2016, a more than three-point increase compared with the previous year;
- establishment of the national fund for accommodation assistance (FNAP);
- the adoption of Law No. 2014-366 of 24 March 2014 on Access to Housing and a New Approach to Town Planning (the "ALUR law"). As a result of this law, domiciliation may be carried out by a local municipal welfare centre, an intermunicipal welfare centre or an agency approved by the prefecture to that end. All municipalities have domiciliation powers by right and are under an obligation to ensure domiciliation as long as the person has a link with the municipality, as defined by Decree No. 2016-632 of 19 May 2016. The distinction between domiciliation under ordinary law and domiciliation in the context of state medical assistance has been abolished.

223. The authorities point to the adoption of Law No. 2017-86 of 27 January 2017 on equality and citizenship, which aims in particular to diversify the range and increase the

supply of Traveller stopping sites and housing, and point out that the implementing regulations published at the end of 2017 will make it possible to apply the new provisions of this law. As a result large stopping sites and rented family plots were incorporated into the *département* scheme for Travellers.

224. The report states that about 206 000 inhabitants of mobile homes are in need of housing.

225. In response to the Committee's request for information on the implementation of the circular of 2012 on planning and support for eviction operations on illegally occupied land, the report states that in 2017, a budget of €3 million was earmarked by the Interdepartmental Office for Accommodation and Access to Housing (DIHAL) for projects to assist persons affected by the dismantling of camps.

226. In 2016, in the 23 *départements* concerned, these measures, which were for the most part implemented by associations in partnership with regional authorities, made it possible in particular, to rehouse 3 600 people, to ensure that 1 800 children could attend school and to help 1 700 people into employment.

227. In total, particularly as a result of the DIHAL's measures, since 2013, nearly 9 000 people have been able to access housing or accommodation, more than 1 700 persons have found employment and nearly 5 800 children have been enrolled in schools.

228. The report states that in France, between 15 000 and 20 000 people (a third of whom are children), who are mostly poor migrants from Eastern Europe (mainly Romania), live in slums. This type of very inadequate housing both poses a serious threat to the inhabitants and creates difficulties for their environment. It is also raises public order issues as most such slums are a result of unlawful occupation of public or private property.

Prevention of evictions; rehousing solutions (violation of Article 31§2)

229. In response to the Committee's request for clarification on the implementation of legislation on the prevention of evictions and on measures to provide rehousing solutions for evicted families, attention was drawn to a national and interdepartmental action plan for preventing evictions, which has been implemented since March 2016. To ensure that the measures under this plan would be effective and would be properly supervised and assessed, a national office for the prevention of evictions was set up under DIHAL auspices and was tasked with liaising between the various ministries involved in preventing evictions and devising and co-ordinating public policy in this area.

230. The Government has also launched a five-year "Housing First" Plan, which is intended to make structural changes to the emergency accommodation policy. The objective is to make far-reaching changes to the emergency accommodation system by providing, as a matter of priority, the poorest families with direct access to housing and by maintaining enough accommodation capacity to be able to take in all those who need homes immediately and unconditionally.

231. Other measures that have been taken are:

- the general rollout of summonses to hearings of tenants who are scheduled to be evicted;
- maintenance of housing assistance in the event of rent arrears;

- the establishment of Visale, a new guarantee scheme for unpaid rent.

232. In response to the Committee's question about measures taken to reduce the number of homelessness, attention was drawn to the following measures:

- provision of new places: 75% more places in general shelters between 2012 and 2016, and also 70% more places in special needs-accommodation over the same period;
- a major budgetary contribution: +43% on the funds used for "special-needs housing and accommodation" under BOP 177 (programme's operational budget);
- introduction of the plan to reduce the use of hotel beds at the beginning of 2015.

233. Overall, there have been over 30 000 emergency accommodation places since 2012.

Provision of affordable housing, poor allocation procedures and remedies; lack of spaces on stopping places (violation of Article 31§3 and of Article E taken in conjunction with Article 31§3)

234. In reply to the Committee's request for information and figures regarding the number of affordable dwellings on offer to the poorest persons, the report states that:

235. In 2016, government funding was provided for 124 226 rented social housing units in metropolitan France, not including projects by the National Agency for Urban Renewal (ANRU), compared to 108 921 in 2015.

236. In response to the Committee's request for information on access to housing support for Travellers living in mobile homes, the report states that as caravans are not recognised as housing, no assistance such as personal housing support (APL) is granted to occupiers. In the context of special-needs social housing (such as rental loans for integration (PLAI): a building with land and space for a caravan), the APL may be granted, but this type of accommodation remains rare. Occasionally, the CAF has granted APL to caravan occupants as long as they remove the wheels (the caravans lose their mobility and mobile home status). The same applies to so-called Roma.

Right to protection against poverty and social exclusion (Article 30 read alone or in conjunction with Article E "non-discrimination")

237. With regard to the right to protection against poverty and social exclusion, the authorities maintain that the implementation of the long-term plan to combat poverty and promote social inclusion, launched in 2013, has led to significant progress in terms of mobilising a vast network of stakeholders (national and local) involved in combating poverty and promoting social inclusion. The following are the main measures implemented: strengthening of the housing policy for the poorest groups, increases in benefits, particularly the active solidarity benefit (RSA), introduction of the activity bonus, expansion of the Youth Guarantee, establishment of Universal Health Coverage and strengthening of complementary universal sickness cover and assistance for the purchase of complementary health insurance.

238. Since the launch, in 2013, of the special meetings to determine eligibility for social benefits, more than 650 000 such meetings have taken place. On 1 January 2016,

4.3 million households under the general scheme had received this new benefit. Four million households had set up a “utilities cheque” amounting on average to €148.

239. The authorities point out that the Law on Equality and Citizenship adopted on 22 December 2016 entirely repealed the Law of 1969 which had set up a special administrative status for Travellers and placed a limit of 3% on the number of voters of no fixed abode or residence in each municipality.

Right to health protection (violation of Article E taken in conjunction with Article 11§§1, 2 and 3)

240. The authorities point out that at national level, taking account of Roma’s and Travellers’ health is one of the priorities of the national health strategy (SNS) for 2017 to 2022.

241. The report states that the Directorate General of Health (DGS) negotiated a four-year agreement for 2013-2016 with the Association for the Assistance of Travellers (ASAV), which is in charge of co-ordinating the programme at national level. To date, a dozen mediators have worked with this group to facilitate their access to their rights and healthcare. At the same time, the law on modernising the healthcare system of 26 January 2016 introduced mediation and interpretation into the Public Health Code, and these are now governed by the National Health Authority benchmarks and by a decree, which was due for publication.

Right to social and medical assistance (violation of Article 13§§1 and 4)

242. The report mentions the introduction of Universal Health Coverage (PUMA) on 1 January 2016. PUMA now entitles anyone working or residing in France on a stable and regular basis to coverage of medical expenses. Foreigners in an irregular situation residing in France for less than three months, or for more than three months and who do not qualify for the State Medical Support (Aide Médicale de l’Etat), may make use of the "emergency care arrangements”.

Right of migrant workers and their families to protection and assistance (violation of Article 19§8)

243. In response to the Committee’s question on the repatriation of Roma of Romanian or Bulgarian origin without their consent, the report states that if the person concerned is not engaged in regular work in France, the mere finding that one of the other requirements of Article L. 121-1 of the CESEDA – having sufficient resources for them and their family members in order not to become a burden on the social assistance system and having health insurance – has not been met is enough to justify an obligation to leave French territory (OQFT). OQTFs are served at the end of the in-depth individual assessments and they may be challenged in the administrative courts, which enables all foreigners to put forward arguments against their expulsion.

3. Assessment of the follow-up

A. Access to housing of an adequate standard; substandard housing ; deficient implementation of the legislation on stopping places for Travellers and Roma (Article 31, Article E taken in conjunction with Articles 31, 16 and 19§4.c)

Access to housing of an adequate standard (Article 31§1 and Article E taken in conjunction with Article 31§1)

244. The Committee takes note of the positive outcome of the long-term to combat poverty and promote social inclusion launched in 2013, particularly the reinforcement of the housing policy for the very poorest groups. The Committee also takes note of Law No. 2017-86 of 27 January 2017 on equality and citizenship, which aims in particular to diversify the range of Traveller stopping sites and housing and to increase the number of places available in Travellers' caravan sites, and the implementing regulations published at the end of 2017. It also notes the achievements of the work of the Interdepartmental Office for Accommodation and Access to Housing (DIHAL), through which access has been secured to housing of an adequate standard for 9 000 people.

245. However, the Government acknowledges that in France, between 15 000 and 20 000 people (a third of whom are children), who are mostly poor migrants from Eastern Europe (mainly Romania), live in slums. This form of housing is very precarious and cannot be considered "housing of an adequate standard".
This group of people does not enjoy the right to housing in practice and hence they are victims of discrimination.

Prevention of evictions; reducing homelessness (Article 31§2)

246. The Committee concluded that there was a violation of Article E taken in conjunction with Article 31§2 because of a lack of sufficient measures to provide emergency accommodation and reduce homelessness among migrant Roma, the unsatisfactory legislation on the prevention of evictions, a lack of measures to provide rehousing solutions for evicted families and the fact that the procedure for the eviction of migrant Roma from the sites where they were installed was a violation of human dignity.

247. The Committee takes note of the adoption of the National and Interministerial Action Plan for the prevention of the eviction of tenants, which has been implemented since March 2016, and the five-year "Housing First" Plan, along with other measures taken to reduce the number of homeless people, such as the creation of housing places and sustained budgetary efforts.

248. It asks for information on the implementation of these action plans so that it can assess whether the situation has been remedied.

Supply of accessible social housing (Article 31§3); effective remedies

249. The Committee concluded that there was a violation of Article 31§3 on the ground that the supply of accessible social housing for low-income groups was inadequate and there were flaws in the social housing allocation system and the related remedies. The Committee also concluded that there was a violation of Article E taken in conjunction with Article 31§3 on the ground that there was no effective access to social housing for Travellers and Roma wishing to live in mobile homes.

250. The Committee takes note of the Government's efforts with regard to rented social housing (in 2016, funding was provided for 124 226 rented social housing units in mainland France). However, despite all these efforts a substantial number of people live in shanty towns, and are deprived of accessible social housing.

251. Furthermore, as stated in the report, caravans are not recognised as dwellings. As a result, no support such as personalised housing assistance (APL) is granted to their occupants.

252. The Committee repeats its request for information concerning remedies where there is a clear shortage of social housing at an affordable price for the poorest people and in the event of excessively long waits for housing.

253. The Committee points out that in its recent decision on European Roma and Travellers' Forum (ERTF) v. France, Complaint No. 119/2015 (Resolution CM/ResChS(2018)4), it found that in France, despite a legal framework which complies even formally with the law of the European Union and the Council of Europe, discrimination always derives from particular formal or non-formal acts – decisions, words or measures – whose effect is to identify one group in relation to another and make it difficult for it to obtain a right or deprive it thereof, directly or indirectly.

254. There are still mayors who, "despite the existing legal provisions", especially in cases of "imminent danger", carry out immediate evictions even where the legal or internationally acknowledged requirements to proceed under the right conditions have not been met, or take "discriminatory positions of which the children of the Roma community are, directly or indirectly, the first victims". The margin of discretion enjoyed by local authorities, even under the law, in spite of the national legal framework condemning acts of discrimination, creates objective risks of discriminatory conduct in breach of Article E of the Charter.

255. In this decision, the Committee noted that the persons belonging to the Roma Community covered by this complaint did not enjoy the rights provided for by the Charter in practice and were therefore subject to discrimination. It was found that there had been a violation of Article E of the Charter taken in conjunction with Article 31 because the persons concerned did not have access to housing of an adequate standard (see §§ 124 and 125 of the decision on European Roma and Travellers' Forum (ERTF) v. France, Complaint No. 119/2015).

256. In conclusion, the Committee refers to the final resolution adopted by the Committee of Ministers on 4 July 2018, which takes note of the commitment of the French Government to bring the situation into conformity with the Charter with regard to the violations found in the decision on European Roma and Travellers' Forum (ERTF) v. France, Complaint No. 119/2015.

257. Accordingly, the Committee holds that the situation has not been brought into conformity with Article 31 taken alone and Article E of the Charter taken in conjunction with Article 31§§1,2 and 3, and Articles 16 and 19§4.c.

258. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

B. Protection against poverty and social exclusion (Article 30 taken alone or in conjunction with Article E)

259. The Committee notes the positive impact of the implementation of the long-term plan to combat poverty and promote social inclusion.

260. The Committee takes note of the Government Instruction of 25 January 2018 aiming to give a new impetus to the elimination of illegal camps and shanty towns, addressed to all

of France's prefects. The Committee considers those measure as a step forward.

261. However, as it pointed out in its decision on ERTF v. France, Article 30 of the Charter requires States Parties to give effect to the right to protection against poverty and social exclusion by adopting measures aimed at facilitating and removing obstacles to access to fundamental social rights, particularly in the fields of employment, housing, training, education, culture and social and medical assistance. Article 30 must itself be considered in conjunction with the other articles of the Charter. This decision shows that as the safeguards needed to accompany eviction orders did not function or did not function properly in the impugned circumstances and it has been established that the persons concerned were not consulted in advance so that they would be encouraged to take part in the choice of the most appropriate measures, the persons concerned consequently encountered difficulties, particularly in terms of housing and schooling, which worsened their living conditions and prevented or reduced their enjoyment of social rights.

262. Consequently, the Committee decides to continue its examination of the situation under Article 30 in the light of the final resolution adopted by the Committee of Ministers on 4 July 2018, which takes note of the commitment of the French Government to bring the situation into conformity with the Charter with regard to the violations found in the decision on European Roma and Travellers' Forum (ERTF) v. France, Complaint No. 119/2015.

263. Accordingly, the Committee holds that the situation has not been brought into conformity with Article E of the Charter taken in conjunction with Article 30.

264. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

265. In reply to the Committee's question concerning the 3% limit on the number of voters with no fixed abode or residence in each municipality, the report states that the Law on Equality and Citizenship adopted on 22 December 2016 entirely repealed the Law of 1969 which had set up a special administrative status for Travellers. This means that the specific provisions referred to in the question no longer exist.

C. Inaccessibility of the French education system (Article E taken in conjunction with Article 17§2)

266. In its decision of 11 September 2012 on the merits in Médecins du Monde – International v. France, Complaint No. 67/2011, the Committee concluded that there was a violation of Article E taken in conjunction with Article 17§2 because the French education system was not sufficiently accessible to Roma children of Romanian and Bulgarian origin. In Findings 2015, the Committee found that the circulars of 2012 and the other measures taken constituted progress and found that the situation had been brought into conformity with the Charter.

267. However, the Committee would point out that in the recent decision on European Roma and Travellers' Forum (ERTF) v. France, Complaint No. 119/2015 (Resolution CM/ResChS(2018)4), it found that the frequent evictions of families belonging to the Roma Community over a short time span contributed to their permanent instability and hence compromised their children's schooling (violation of Article E taken in conjunction with Article 17§2).

268. Accordingly, the Committee holds that the situation is not in conformity with Article E of the Charter taken in conjunction with Article 17§2.

269. For this reason it will next assess the situation on the basis of the information to be submitted to it in October 2019 on the follow-up to this decision.

D. Problems with access to healthcare; lack of information, awareness-raising and health counselling and screening for migrant Roma; lack of disease and accident prevention measures (Article E taken in conjunction with Article 11§§1, 2 and 3)

270. The Committee takes note of the national health strategy (SNS) for 2017-2022, one of the main focuses of which is Roma and Traveller health, along with the health mediation programme for Roma and other health measures taken or planned. To date, a dozen mediators have worked with this group to facilitate their access to their rights and healthcare. It considers that progress has been made.

271. However, the Government recognises the serious health risks run by thousands of people (a third of whom are children) living in highly precarious conditions in shanty towns. The number of mediators given in the report does not seem adequate to cover these persons' health needs. Nor does the report show that an end has been put to the breakdowns in medical care and treatment resulting from the eviction of these people.

272. The Committee reiterates that the State has failed to meet its positive obligation to ensure that migrant Roma, whatever their residence status, including children, enjoy adequate access to health care and health protection, in particular by failing to take reasonable steps to address the specific problems faced by Roma communities stemming from their often insalubrious living conditions and the difficulties they encounter.

273. Accordingly, the Committee holds that the situation has not been brought into conformity with Article 11§§1 2, and 3 of the Charter.

274. For this reason it will next assess the situation on the basis of the information to be submitted to it in October 2019 on the follow-up to these decisions.

E. Lack of medical assistance for migrant Roma lawfully resident or working regularly in France for more or less than three months (13§1)(13§4).

275. The Committee notes that under French legislation, migrants lawfully resident or working regularly in France benefit from sickness and maternity insurance under the same conditions as the French population.

276. Accordingly, the Committee holds that the situation has been brought into conformity with Article 13§§1 and 4 of the Charter.

F. Collective expulsions and remedies (violation of Article 19§8)

277. The Committee asked for information on the repatriation of Roma of Romanian or Bulgarian origin without their consent.

278. According to the information it has received, the Committee notes that the legal framework in which Bulgarian and Romanian nationals are expelled from the country is provided for by Chapter II of Book I of the Code on the Entry and Residence of Aliens and the Right of Asylum (CESEDA), which transposes the rules contained in Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States into domestic law.

279. Obligations to leave French territory (OQTFs) are served at the end of in-depth individual assessments and may be challenged in the administrative courts, which enables all foreigners to put forward arguments against their expulsion.

280. The Committee also notes that since 1 January 2014, the transitional measures applied to Bulgarian and Romanian nationals since the accession of their countries to the European Union have ceased to apply.

281. Accordingly, Bulgarian and Romanian citizens, like any other citizen of the European Union not covered by transitional rules, have been able to work freely in France since that date. Reserved occupations are no longer relevant and the entire labour market is now open to Romanian and Bulgarian citizens.

282. Accordingly, the Committee holds that the situation has been brought into conformity with Article 19§8 of the Charter on the "right of migrant workers and their families to protection and assistance".

Appendix

This document contains an overview of violations found by the European Committee of Social Rights in several complaints concerning **Roma and Travellers in France**.

No.	Complaints	Date of the decision on the merits	Violations
1	International Movement ATD Fourth World (ATD) v. France, No. 33/2006	5/12/2007	Several violations of Article 31 on the "right to housing", taken alone or in conjunction with Article E, on several grounds: - the legislation on the prevention of evictions was unsatisfactory and there was a lack of measures to provide rehousing solutions for evicted families (violation of Article 31§2); - there was a clear shortage of social housing at an affordable price for the poorest people, the arrangements for allocating social housing to the poorest people and the available remedies in the event of excessively long waits for housing were inadequate (violation of Article 31§3); - the implementation of the legislation on stopping places for Travellers was deficient (violation of Article E taken in conjunction with Article 31). No co-ordinated approach to promoting effective access to housing for persons who lived or risked living in a situation of social exclusion or poverty (violation of Article 30 taken alone or in conjunction with Article E of the Charter).
2	European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, No. 39/2006	5/12/2007	Several violations of Article 31 on the following grounds: - insufficient progress as regards the eradication of substandard housing and lack of proper amenities for a large number of households (violation of Article 31§1); - unsatisfactory implementation of the legislation on the prevention of evictions and the lack of measures to provide rehousing solutions for evicted families; measures in place to reduce the number of homeless were insufficient, both in quantitative and qualitative terms (violation of Article 31§2); - insufficient supply of social housing accessible to low-income groups, malfunctioning of the social housing allocation system and of the related remedies (violation of Article 31§3); - deficient implementation of legislation on stopping places for Travellers (violation of Article 31§3 in conjunction with Article E).

3	European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008	19/10/2009	Several violations of Articles 31 and 16 on the following grounds: - failure to create a sufficient number of stopping sites, poor living conditions and operational failures at the sites, and lack of access to housing for settled Travellers (violation of Article 31§1); - eviction procedures and other penalties were not suitable (violation of Article 31§2); - discrimination against travellers in the implementation of the right to housing (violation of Article E taken in conjunction with Articles 31 and 16); - the lack of a co-ordinated approach to promoting effective access to housing for persons who live or risk living in a situation of social exclusion (violation of Article 30); - the qualification period of three years' attachment to a municipality to be entitled to vote and the effect of the 3% quota on Travellers' voting rights (violation of Article E taken in conjunction with Article 30). A violation of Article 19§4 c) because of the violation of Article 31.
4	Centre on Housing Rights and Evictions (COHRE) v. France, No. 63/2010	28/06/2011	**An aggravated violation** of Article E taken in conjunction with Article 31§2 because the conditions in which the forced evictions of Roma camps had taken place in the summer of 2010 were incompatible with human dignity. A violation of Article E taken in conjunction with Article 19§8 on the ground that Roma of Romanian and Bulgarian origin consented to repatriation to their country of origin in the summer of 2010 under duress and against a background of racial discrimination.
5	European Roma and Travellers Forum (ERTF) v. France, No. 64/2011	24 /01/2012	A violation of Article E taken in conjunction with Article 19§8 on the ground that the administrative decisions whereby, after the summer of 2010, Roma of Romanian and Bulgarian origin had been ordered to leave French territory, where they had been resident, had not been founded on an examination of their personal circumstances, had not respected the proportionality principle and had been discriminatory in nature since they had targeted the Roma community. A violation of Article E taken in conjunction with Article 30 because of the situation of Travellers with regard to the right to vote. A violation of Article E taken in conjunction with Article 31§1 on the ground that the implementation of the legislation on stopping places for Travellers and Roma of Romanian and Bulgarian origin was deficient. A violation of Article E taken in conjunction with Article 31§2 on the following grounds: - with regard to Travellers, the execution of the forced eviction procedure governed by Articles 9 and 9-I of the Law of 5 July 2000 was inadequate; - as to Roma of Romanian and Bulgarian origin, the conditions in which forced evictions of Roma camps took place were inconsistent with human dignity. A violation of Article E taken in conjunction with Article 31§3 on the ground that there was no effective access to social housing for Travellers and Roma wishing to live in mobile homes. A violation of Article E taken in conjunction with Article 16 because the finding of a violation of Article E taken in conjunction with Article 31, paragraphs 1, 2 and 3, with regard to Travellers and Roma of Romanian and Bulgarian origin also resulted in a violation of Article E taken in conjunction with Article 16.
6	Médecins du Monde - International v. France, Complaint No. 67/2011	11 /10/2012	Several violations of Article 31 on the following grounds: - excessively limited access to housing of an adequate standard and degrading housing conditions for migrant Roma lawfully resident or working regularly in France (violation of Article E taken in conjunction with Article 31§1); - the inadequate procedure for eviction of migrant Roma from the sites where they were installed (violation of Article E taken in conjunction with Article 31§2); - a lack of sufficient measures to provide emergency accommodation and reduce homelessness among migrant Roma (violation of Article E taken in conjunction with Article 31§2). The decision also concerns: - a lack of sufficient measures to provide housing to families of migrant Roma residing lawfully or working regularly in France (violation of Article E taken in conjunction with Article 16); - insufficient measures to promote effective access to housing to migrant Roma residing lawfully or working regularly in France (violation of Article E taken in conjunction with Article 30); - breaches in the expulsion procedure for migrant Roma (violation of Article E taken in conjunction with Article 19§8); - the French education system was not sufficiently accessible to Roma children of Romanian and Bulgarian origin (violation of Article E taken in conjunction with Article 17§2); - difficulties in access to health care for migrant Roma, whatever their residence status (violation of Article E taken in conjunction with Article 11§1); - the lack of information, awareness-raising and health counselling and screening for migrant Roma (violation of Article E taken in conjunction

			with Article 11§2); - a lack of disease and accident prevention measures targeting migrant Roma (violation of Article E taken in conjunction with Article 11§3); - a lack of medical assistance for migrant Roma lawfully resident or working regularly in France for more than three months (violation of Article E taken in conjunction with Article 13§1); - a lack of medical assistance for migrant Roma lawfully resident or regularly working in France for less than three months (violation of Article 13§4).

European Council of Police Trade Unions (CESP) v. France, Complaint n° 38/2006, decision on the merits of 3 December 2007.
Resolution CM/ResChS(2008)6

European Council of Police Trade Unions (CESP) v. France, Complaint n° 57/2009, decision on the merits of 1 December 2010.
Resolution CM/ResChS(2013)9

European Council of Police Trade Unions (CESP) c. France, Complaint n° 68/2011, decision on the merits of 23 October 2012.
Resolution CM/ResChS(2013)10

1. Decisions of the Committee on the merits of the complaints

283. These decisions deal with similar violations concerning the right of workers to an increased rate of remuneration for overtime work of the active agents of the national Police. The Committee therefore decided to jointly assess the measures taken in the follow-up to these decisions.

284. In particular, with regard to complaints No. 38/2006, No. 57/2009 and No. 68/2011 lodged by the European Council of Police Trade Unions (CESP), the European Committee of Social Rights found that the situation in France was not in conformity with Article 4§2 of the European Social Charter (right to a fair remuneration) on the grounds that the system for the payment of overtime worked by national police officers was deficient, the increase in the command bonus was inadequate and the arrangements for compensatory time off for overtime worked by senior police officers were inadequate.

285. In its decision of 3 December 2007, CESP v. France No. 38/2006, the Committee concluded that the French system for the payment of overtime worked by national police officers was inadequate and was in breach of Article 4§2.

286. In its decision of 1 December 2010, CESP v. France No. 57/2009, the Committee ruled only against the arrangements which henceforth applied specifically to members of the "supervision and enforcement corps" of the national police, pursuant to two decrees from 2008 introducing flat-rate payment for overtime work by senior police officers (Decree No. 2008-340 of 15 April 2008 amending Article 1 of Decree No. 2000-194 of 3 March 2000 on the conditions for the payment of overtime to operational members of the national police force; Decree No. 2008-341 of 15 April 2008 awarding a command bonus to officers of the national police command corps). In the decision, the Committee noted that the term "particular cases", in which exceptions to a state party's obligation to grant entitlement to increased remuneration for overtime work might be allowed, only concerned "senior officials" of the public service and "management executives", a category which did not include senior police officers, as opposed to police commissioners: "The latter are the most senior managers in the French police, and constitute what is defined as a higher technical corps with joint ministerial responsibilities. Whereas senior police officers are simply responsible for heading specific departments and units, police commissioners have both operational and organisational responsibility for the departments they manage. Finally, senior police officers carry out inquiries and fact-finding and surveillance operations in the police operational departments whereas commissioners have certain judicial powers under the law."

287. In its decision of 23 October 2012, CESP v. France No. 68/2011, the Committee found that the provisions on overtime for senior police officers were in breach of Article 4§2 in two respects:

a) "the increase in the command bonus following the withdrawal, in April 2008, of the overtime payments which the senior police officers received before the current regulations were introduced – regulations which could, in principle, have compensated for this withdrawal – and which was introduced by Decree No. 2000-194 of 3 March 2000, as amended by Decree No. 2008-340 of 15 April 2008, the general regulations governing employment in the national police force of 6 June 2006, as amended by ministerial order NOR IOCC0804409A of 15 April 2008, and Instruction NOR INTC0800092C of 17 April 2008 is not in conformity with Article 4§2 of the Charter";

b) "the arrangements for compensatory time off for overtime worked by senior police officers provided for by the Order of 6 June 2006 on the general regulations governing employment in the national police force and Decree No. 2008-340 of 15 April 2008 amending Article 1 of Decree No. 2000-194 of 3 March 2000 on the conditions for the payment of overtime to operational members of the national police force are not in conformity with Article 4§2 of the Charter."

2. Information provided by the Government

288. In response to the above-mentioned decisions, in the report submitted on 29 November 2017, the French authorities indicated that, since those decisions, the status of senior police officers has continued to change since the decisions and that they should now be classified as having executive ("cadre") status. Since 2004, the French government has sought gradually to enhance the executive role of senior police officers and has passed a range of corresponding legislation.

- The order of 17 January 2002 setting the amounts of the command bonus awarded to officers of the national police command and management corps, as amended by the order of 27 May 2004 setting the amounts of the command bonus awarded to police officers.

- Decree No. 2005-716 of 29 June 2005 on the specific status of the command corps of the national police force, as amended by Decree No. 2017-216 of 20 February 2017 defining the specific status of the command corps of the national police, Article 2 of which provided that "the senior police officers who constitute this corps shall perform operational command duties and provide advanced knowledge and skills with regard to internal policing and security."

- Decree No. 2008-341 of 15 April 2008 awarding a command bonus to officers of the national police command corps, which awarded a command bonus to senior police officers, excluding certain hourly payments.

- Decree No. 2013-1144 of 11 December 2013 establishing a responsibility and performance allowance for officers of the national police command corps, which abolished the command bonus and established a responsibility and performance allowance "on account of the particular responsibilities which they exercise and the constraints inherent in their duties, as well as the results which they achieve" (Article 1).

- Decree No. 2017-216 of 20 February 2017 amended the Decree of 29 June 2005 on the specific status of the command corps of the national police force with regard to

"recognition of the changes in the tasks, the duties performed and the positioning of the command corps within the police hierarchy in terms of reforming its status and moving its pay scale to 'A-type'". While the Directorate General of the Public Service (DGAFP) gives no precise definition of "executive" ("cadre"), it divides corps and classes of officials into three statutory categories or hierarchical categories depending on recruitment requirements and the duties to be performed by the relevant corps.

289. Under the specific arrangements, each corps falls into one of the following categories: category A for general studies or planning and management duties (category termed "executive"), category B for clerical duties and category C for technical duties. Decree No. 2017-216 accordingly finalises the status of senior police officers. It may now therefore be stated that senior police officers exercise key responsibilities in connection with their command and expertise roles. This positioning as executives has been reinforced by a real reduction in the size of the corps in recent years, which has naturally resulted in their occupying posts with high-level responsibilities. The number of senior police officers fell from 18 000 in 2004 to 8 750 in 2017. This figure should be seen in relation to the 247 000 FTE police officers and gendarmes as at 31 December 2016 (3.5%). Moreover, recruitment requirements for senior police officers were raised to a minimum of three years' higher education (bac +3) in 2005, while the above-mentioned decree in 2017 upgraded senior officers' pay scale. The new scale moves senior officers to the 'A-type' category (above ordinary A category). Lastly, they are paid a responsibility and performance allowance (responsibility allowance paid monthly, performance allowance paid annually), placing them in a position similar in managerial terms to police commissioners.

290. Members of the command corps clearly therefore come under the arrangements for executives of the national police force, in terms of the duties they perform, their position within the services and the provisions on their pay scale and allowances.

291. France accordingly considers that they fall within the particular cases mentioned in Article 4§2 of the European Social Charter and there is therefore no need to grant them overtime pay.

3. Assessment of the follow-up

292. The Committee takes note of the decrees mentioned in the information provided by the authorities aimed at strengthening the status of police officers.

293. However, the Committee recalls that in these decisions it found a violation of Article 4§2, inextricably linked to Article 2§1, which guarantees the right to reasonable daily and weekly working hours. Overtime is work performed in addition to normal working hours.

294. The Committee recalls that the principle of this provision is that work performed outside normal working hours requires an increased effort on the part of the worker, who should be paid at a rate higher than the normal wage.

295. Mixed systems for compensating overtime, for example where an employee is paid the normal rate for the overtime worked but also receives time in lieu, are not contrary to Article 4§2.

296. In this case, concerning the command bonus and the liability and performance allowances allocated to the officers of the Police Command Corps (Decrees of 11 December

2013, and 20 February 2017), the Committee considers it essential to emphasise that it is not the purpose of the command bonus in itself to compensate for overtime; it is only the extra amount added to the bonus since 2008 in the form of an increase that is intended to compensate for the overtime worked by senior police officers (Conseil Européen des Syndicats de Police (CESP) v. France, decision n° 68/2011, decision on the merits of 5 November 2011, §§ 76, 77 et 86-88, §76). This also applies to liability and performance allowances for police officers as they are of the same nature as command bonus in that they are allocated because of the responsibilities and the constraints inherent in their functions and the results achieved.

297. Moreover, the Committee recalls that it understands the term "particular cases", to which exceptions to states'obligation to grant entitlement to increased remuneration for overtime work might apply, to include "senior officials" of state employees and management executives. Concerning management executives, exceptions may be applied to all senior managers. However, the Committee has ruled that certain limits must apply, particularly on the number of hours of overtime not paid at a higher rate (Confédération Française de l'Encadrement CFE-CGC v. France, Complaint No. 9/2000, Decision on the merits of 16 November 2001, §45). (Conseil européen des syndicats de police v. France, complaint n° 57/2009, decision on the merits of 1 December 2010, §§ 42-44).

298. The Committee recalls that the organisational status and responsibilities of members of the command corps have continued to differ significantly from those of police commissioners. The former act as operational heads of police departments and offer a high level of expertise in policing and internal security matters. They provide support to or stand in for members of the planning and management corps, the most senior branch of the service. The latter are the most senior managers in the French police, and constitute what is defined as a higher technical corps with joint ministerial responsibilities.

299. The Committee therefore finds that, in general, members of the national police command corps (senior police officers) do not fall into the category of exceptions provided for in Article 4§2 of the Revised Charter.

300. Lastly, the Committee notes that the informations provided by the authorities do not show how they envisage guaranteeing the right of workers to an increased rate of remuneration for over-time work for the active members of the national police.

301. Accordingly, the Committee holds that the situation has not been brought into conformity with Article 4§2 of the Charter in the three decisions pending before it.

302. For this reason, the Committee will next assess the situation on the basis of the information to be submitted in October 2019.

European Council of Police Trade Unions (CESP) v. France, n°101/2013, decision on the merits of 27 January 2016
Resolution CM/ResChS(2016)5

1. Decision of the Committee on the merits of the complaint

303. This decision concerns a violation of Article 5 of the Charter where the National Gendarmerie is functionally equivalent to a police force. Members of police forces must be free to form or join genuine organisations for the protection of their material and moral interests and such organisations must be able to benefit from most trade union prerogatives. These are basic guarantees with regard to i) the constitution of their professional associations; ii) the trade union prerogatives that may be used by these associations; and iii) the protection of their representatives.
This decision also concerns a violation of Article 6§2 of the Charter. National professional associations of military personnel governed by the Defence Code (APNM) are not provided with a means to effectively represent their members in all matters concerning their material and moral interests.

2. Information provided by the Government

304. In the information submitted on 29 November 2017, the Government disputes this analysis and points out that the Defence Code provides that "the National Gendarmerie shall be an armed force" (Art. L. 3211-3, para. 1). The national gendarmerie must primarily be seen as an armed force for maintaining and restoring public order, if it were to become necessary, upon authorisation by the Prime Minister, to resort to "specific military means" (Art. L. 1321-1, paras. 1 and 2, Defence Code).

305. It recalls that the national gendarmerie is also required to meet defence needs within national territory, in particular operational defence of national territory (Art. R. 1421-1 and R. 3225-6, para. 7, Defence Code), under the authority of the Minister for Defence, who is responsible for preparing and implementing defence policy (ibid., Art. L. 1142-1, para. 1).

306. The national gendarmerie also performs military duties outside national territory, in accordance with France's international undertakings, and together with armed forces (Art. L. 3211-3, para. 6, Defence Code) in foreign theatres of operation.

307. Military status enables the national gendarmerie to perform its functions across a "peace-crisis-war" spectrum, with all the respective missions on this spectrum being carried out on the same legal basis. Military status is thus essential to the national gendarmerie.

308. The reasoning followed by the Committee deprives national gendarmerie personnel working in its key "policing" role of military status, which France challenges. Applying Articles 5 and 6 on a variable-geometry basis depending on the duties performed is not an option, as national gendarmerie personnel cannot be regarded as civilian or military depending on their duties. A legal arrangement of this kind would generate confusion and lack of clarity.

309. Moreover, being a member of the armed forces is not determined by the duties performed, but by the status of the person concerned. Regardless of the status of the relevant individuals, the rights and duties of public officials must not vary in scope on the basis of uncertain geographical or time factors.

310. The ECSR's reasoning could also end up being applied to other members of the armed forces involved in certain domestic operations (OPINT, in particular, the Sentinelle anti-terror operation).

311. In addition, the military personnel of the national gendarmerie enjoy the same rights as all members of the French armed forces, which have changed substantially in recent years, in particular as regards the right "to organise", further to the rulings of the European Court of Human Rights (ECHR) in this area.

312. French public law had long prohibited armed forces personnel from setting up professional or trade union groupings or joining such groupings. In two judgments on 2 October 2014 (Matelly v. France, No. 10609/10 and ADEFDROMIL v. France, No. 32191/09), the ECHR held that this blanket ban laid down in Article L. 4121-4 of the Defence Code breached the provisions of Article 11 (freedom of association) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, while acknowledging that states could place "legitimate restrictions" on freedom of association in the case of members of the armed forces.

313. Accordingly, under Articles 5 to 8 of Law No. 2015-917 of 28 July 2015 updating military planning for the years 2015 to 2019 and laying down certain provisions concerning defence, members of the armed forces are entitled to set up and join national professional associations of military personnel (APNM), which, subject to certain requirements in terms of representativeness, can take part in military consultation bodies.

3. Assessment of the follow-up

314. Referring to the requirements of Article 5, the Committee recalls that the law n° 2015-917 does not provide adequate protection from harmful consequence, particularly reprisals, that APNM membership or activities may entail, as required. It neither offers punishment, remedy or compensation where APNM membership or activities are not respected or discrimination occurs. Moreover, these restrictions on the freedom of expression applicable to members of the armed forces constrain trade union prerogatives of associations of members of the Gendarmerie to an extent that goes beyond what is accepted under Article 5 of the Charter.

315. The law does not provide sufficient protection to APNM representatives from harmful consequence, particularly reprisal, that the exercise of their representative activities or prerogatives may have on their employment.

316. Lastly, the Committee recalls that APNMs are not provided with a means to effectively represent their members in all matters concerning their material and moral interests in conformity with Article 6§2 of the Charter.

317. Accordingly, the Committee holds that the situation has not been brought into conformity with Articles 5 and 6§2 of the Charter.

318. For this reason, it will next assess the situation on the basis of the information to be submitted to it in October 2019 on the follow-up to this decision.

***Syndicat national des Professions du tourisme* v. France, Complaint No. 6/1999, decision on the merits of 10 October 2000**
Recommendation RecChs(2001)1

1. Decision of the Committee on the merits of the complaint

319. In its 2015 findings, the Committee considered that the situation had been brought into conformity with regard to the following findings of violations:

- Article 1§2 because of the differences in treatment between the approved lecturer guides of the Villes et Pays d'Art et d'Histoire network and the interpreter guides and national lecturers with a state diploma as regards the freedom to conduct guided tours.

- Article 1§2 because of the differences in treatment between the approved lecturer guides of the CNMHS and national museums and the interpreter guides and national lecturers with a state diploma with regard to the freedom to conduct guided tours.

320. The Committee took note of the reform of the profession of guide by Decree No. 2011-930 of 1 August 2011 on persons qualified to conduct guided tours of museums and historical monuments. This decree put an end to the differences in treatment between the approved lecturer guides of the Villes et Pays d'Art et d'Histoire network and the interpreter guides and national lecturers with a state diploma with regard to the freedom to conduct guided tours.

321. The Committee had also concluded that there was a violation of Article 1§2 because the differences in treatment between the approved lecturer guides of the CNMHS and national museums and the interpreter guides and national lecturers with a state diploma with regard to working conditions (differences in treatment in price terms) constituted discrimination. In the case of this violation, the Committee concluded that the situation had not been brought into conformity on the ground that different prices were still charged for "free" groups and invited the Government to state whether this difference in treatment was founded on an objective and proportionate justification.

2. Information provided by the Government

322. In the information registered on 29 November 2017, the Government states that, firstly, it has to be made clear that the "right to speak" in museums is directly linked to the reservation fee. When a self-employed lecturer guide holding the professional card is asked by a group to conduct a guided tour of a museum, he/she must make a reservation with the establishment concerned. The aim is to enable the museum to block time-slots for the group so as to facilitate the movement of the various visitor groups and make sure that guided tours conducted out loud or using audio-guides do not disturb the other visitors.

323. It is also to check that the groups are accompanied by a person who is authorised to speak and conduct tours. The visitors' regulations of each national museum list the categories of professionals authorised to speak in museums. Apart from lecturer guides, they usually include scientific staff of museums (French or foreign) holding the professional card, teachers leading classes, museum staff, personnel from the social and disability sector and individuals authorised by the museum, etc.

324. In order to ascertain whether certain museums apply discriminatory charges to self-employed lecturer guides, group prices and, in particular, reservation fees were examined for all national museums run by the Ministry of Culture. While reservations with museums

are compulsory, charges are not applied in all museums. They are usually applied in museums with very large numbers of visitors where regulation of visitor flows is necessary.

325. The only groups eligible for reduced prices are those from the educational, social or disability sectors and, in those cases, museums act in line with the policy developed by the Ministry of Culture in terms both of artistic education and of the inclusion of all groups in cultural establishments.

3. Assessment of the follow-up

326. Following examination and as indicated in the tables appended to the report (Appendices I and II), there is no difference in prices between groups which employ outside guides (often referred to as 'free' tours) and those which use lecturer guides provided by museums. In the latter case, the price of the guided tours is displayed and is charged extra. The Committee notes that there is no discrimination in prices between self-employed lecturer guides and lecturer guides provided by museums run by the Ministry of Culture.

327. The Committee considers that the situation has been brought in conformity with Article 1§2 of the Charter and decides to terminate the follow-up to the decision.

GREECE

GREECE

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Greece was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- European Roma Rights Center v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004;

- International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece, Complaint No. 49/2008; decision on the merits of 11 December 2009;

- World Organisation against Torture ("OMCT") v. Greece, Complaint No. 17/2003, decision on the merits of 7 December 2004;

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

- General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, complaint No. 65/2011, decision on the merits of 23 May 2012;

- General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, Complaint No. 66/2011, decision on the merits of 23 May 2012;

- Federation of employed pensioners of Greece (IKA-ETAM) v. Greece, Complaint No. 76/2012, decision on the merits of 7/12/2012;

- Panhellenic Federation of Public Service Pensioners (POPS) v. Greece, Complaint No. 77/2012, decision on the merits of 7/12/2012;

- Pensioner's Union of the Athens – Piraeus Electric Railways (I.S.A.P.) v. Greece, Complaint No. 78/2012, decision on the merits of 7/12/2012;

- Panhellenic Federation of pensioners of the Public Electricity Corporation (POS – DEI) v. Greece, complaint No. 79/2012, decision on the merits of 7/12/2012;

- Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece, Complaint No. 80/2012, decision on the merits of 7/12/2012;

- International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013.

European Roma Rights Center v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004
Resolution ResChS(2005)11

International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece Complaint No. 49/2008, decision on the merits of 11 December 2009
Resolution CM/ResChS(2011)8

1. Decisions of the Committee on the merits of the complaints

European Roma Rights Center v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004
Resolution ResChS(2005)11

328. In this decision the Committee found a violation of Article 16 of the Charter due to the insufficiency of permanent dwellings, lack of temporary camping sites and forced evictions of Roma.

Insufficiency of permanent dwellings

329. The Committee found that Greece failed to take sufficient measures to improve the living conditions of the Roma, notably by reason of the insufficient means for constraining local authorities or sanctioning them. A significant number of Roma was living in conditions that fail to meet minimum housing standards.

Insufficiency of temporary camping sites

330. The Committee noted that as a result of the terms of the 2003 Joint Ministerial Decision which concerned itinerant persons in general and the 1983 Ministerial Decision which expressly concerned the Roma, the conditions for temporary encampment as well as the conditions regarding the amenities were extremely strict and that in the absence of the diligence on the part of the local authorities on one hand to select appropriate sites and on the other the reluctance to carry out the necessary works to provide the appropriate infrastructure, Roma had an insufficient supply of appropriate camping sites.

Forced evictions and other sanctions

331. The Committee noted that the Government provided no real information on evictions, (either statistics, or remedies for those unlawfully evicted or examples of relevant case law). It failed the provision of alternative housing and sometimes involving the destruction of personal property.

International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece
Complaint No. 49/2008, decision on the merits of 11 December 2009
Resolution CM/ResChS(2011)8

332. In this decision the Committee found a violation of Article 16 of the Charter on the grounds that the different situation of Roma families was not sufficiently taken into account with the result that a significant number of Roma families continue to live in conditions that fail to meet minimum standards.

333. The Committee refered in particular to the Spata settlement, near Athens, which housed families in prefabricated housing which had no main power supply, running water or regular waste collection services and instead had generators and water storage tanks, to the settlement in Aspropyrgos which had no basic public utilities and to that in the city of Komotini as examples.

334. Lastly, there was a violation of Article 16 of the Charter on the grounds that Roma families continued to be forcibly evicted in breach of the Charter and the legal remedies generally available are not sufficiently accessible to them.

2. Information provided by the Government

335. The Government indicates in the information registered on 9 July 2018 that several measures have been developed.

336. In particular, the National Strategy for the Social Integration of Roma 2012-2020 highlighted housing as a key priority in the context of integrated local interventions.

337. In the context of this strategy, a Special Secretariat was established at the Ministry of Labour, Social Security and Social Solidarity, on 31 October 2016, pursuant to Law No. 4430/2016. Its main task is to establish and implement guidelines for the social inclusion of ROMA, in cooperation with other government bodies, notably local self-government agencies.

338. Especially in the area of housing, the Special Secretariat for ROMA has done a presentation of the current situation by mapping the settlements and camps and classifying them in order to plan appropriate housing interventions. Moreover, based on the findings, the Secretariat has forwarded to all municipalities of the country with ROMA populations, a Model Local Action Plan with spatial and demographic presentation of the situation and the proposed interventions to be implemented by the municipal authorities together with their indicative budgets and implementation schedules, concerning all four operational axes: housing, education, employment, health.

339. The report acknowledges that living and housing conditions of Roma in Greece are largely characterized as unsuitable.

340. According to the report 9,291 people live in: «Most degraded areas», in unacceptable living conditions in huts, shelters lacking basic infrastructure; 63,861 people live in “Mixed camps» - houses together with short-term facilities (shanties, tents, containers often used on a permanent basis with rudimentary infrastructure (water and electricity supply, roads), usually in the vicinity of a build-up area ; 36,855 people live in “Neighborhood” in permanent use, often in disadvantaged areas of the urban fabric (mainly houses, buildings – apartment flats or detached houses and some containers).

341. Community Centers established by Law No.4368/2016, offer “one stop shop” extended services by using an individualized holistic approach and constitute an “umbrella” action for services that reflect policies being implemented or scheduled, such as the Social Solidarity Income, the program of the Fund for European Aid to the most deprived (FEAD), implementation of active employment policies in cooperation with the OAED and the General Secretariat for Lifelong Learning, etc.

342. A legislative regulation was adopted in order to facilitate the access of Roma people to housing assistance, by virtue of Law No.4483/2017.

On the evictions

343. The report indicates that no legislative amendments have occurred since the previous report. However, in accordance with the Constitution and EU law, the authorities avoid taking any expulsion measures or using any other means of forced eviction from their places of residence, until a prior relocation site is identified, where they will be able to stay legally and which meets at least the basic standards of decency, while measures are taken to deal with the practical aspects of their relocation.

3. Assessment of the follow-up

A. On the insufficient number of permanent dwellings for Roma families.

344. The Committee therefore takes note of the measures taken by the Special Secretariat for ROMA by mapping and classifying the settlements and camps in order to plan appropriate housing interventions, which constitutes a progress. However, the information provides that Roma people continue to live in substandard housing conditions.

345. The Committee finds that the situation has not been brought into conformity with the Charter. The Committee asks for information that will be submitted in October 2019 regarding further developments to improve Roma families' housing conditions.

B. On the lack of temporary stopping facilities

346. No information is provided following the request of the Committee regarding the measures that will be taken to remedy the lack of temporary stopping facilities for Roma families. It finds that the situation has not been brought into conformity with the Charter.

347. Therefore, the Committee reiterates its request.

C. On the forced eviction and sanctions of Roma families

348. In the Findings 2015, the Committee asked for information on whether the legislation will be amended so as to introduce prior consultation, adequate notice or provision of alternative accommodation in case of eviction. It also asks whether the legislation will be amended so as to forbid the destruction of personal property of Roma families in case of eviction. The report indicates that no legislative amendments have occurred.

349. The Committee finds that the situation has not been brought into conformity with the Charter.

350. In the report that will be submitted in October 2019, the Committee asks for information on the legal remedies available in case of forced evictions. It further asks the authorities to confirm that procedures such as prior consultation with Roma families,

adequate notice or provision of alternative accommodation in case of eviction exist in the national legislation.

World Organisation against Torture ("OMCT") v. Greece, Complaint No. 17/2003, decision on the merits of 7 December 2004
Resolution ResChS(2005)12

1. Decision of the Committee on the merits of the complaint

351. The Committee concluded that there was a violation of Article 17 of the 1961 Charter on the ground that the Greek legislation did not prohibit all forms of corporal punishment on children within the family, in secondary schools and in other institutions and forms of care for children.

2. Information provided by the Government

352. In the information registered on 28 August 2015 the Government indicated that the Law No.3500/2006, explicitly prohibits corporal punishment in the home and the Law No.3328/2005, explicitly prohibits any kind of physical punishment of students in secondary schools.

353. In the information registered on 9 July 2018, in response to the last negative finding of the Committee on child care institutions and structures, the report indicates that article 6§5 of Law No.3500/2006, provides that the provisions referring to personal injury caused by domestic violence, shall apply respectively to workers in social care providers. The law provides for imprisonment depending on the severity and the circumstances under which the action was committed. The concept of social care providers includes all institutions providing care and protection to children.

354. In the context of implementing the above decision, under article 8 of Law No.3961/2011, through a Joint Ministerial Decision, the 1107 National Child Protection HelpLine was established, which is a service available 24/7 free of charge providing immediate information and advice, and interconnection with the appropriate Child Protection Services.

355. In the same context, a Minors' Protection Team composed of social workers was established at every Municipality.

356. Moreover, at national level, the National Center for Social Solidarity (EKKA) is developing an integrated Electronic System for coordinating welfare actions, improving the quality and effectiveness of services provided to children.

357. A recent development is the one provided by Article 14, para 5 of Presidential Decree (P.D.) 79/2017on the «Organisation and operation of kindergartens and primary schools», which is included in the legal framework that already prohibits corporal punishment in all levels of schools (as already detailed in the previous report). Finally, by virtue of a Ministerial Decision, the 6th of March was established as Panhellenic School Day against Violence in School.

358. From all the above as well as from the information given in the previous simplified Greek report on the subject, it follows that corporal punishment of children is fully prohibited in Greece.

3. Assessment of the follow-up

359. The Committee takes note of the positive developments and in particular of the Acts which explicitly prohibit all corporal punishment of children in all circumstances affecting the

physical integrity, dignity, development or psychological well-being of a child, and therefore addressing the violation found by the Committee.

360. The Committee finds that the situation has been brought into conformity with the Charter and decides to terminate the examination of the decision.

The Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006
Resolution CM/ResChS(2008)1

1. Decision of the Committee on the merits of the complaint

361. In this decision the European Committee of Social Rights concluded that Greece has not managed to strike a reasonable balance between the interests of persons living in the lignite mining areas and the general interest, and therefore that there has been a violation of Article 11§§1, 2 and 3 of the Charter.

362. In particular, the Committee found a series of failures in the institutional framework of environmental controls such as:

- unsatisfactory implementation of the applicable law;
- modest and low-deterrent sanctions;
- insufficient information for populations living in lignite-mining areas.

363. The Committee also found that there was a violation of Article 3§2 of the Charter due to its failure to monitor the enforcement of regulations on health and safety at work properly, given that the government acknowledged the shortage of supervisory staff and could not supply precise data on the number of accidents in the mining sector.

364. Lastly, the Committee found a violation of Article 2§4 of the Charter that requires states to grant workers exposed to occupational health risks compensation in the form of time off. In this case, however, Greek law does not require collective agreements to provide for compensation in accordance with Article 2§4.

2. Information provided by the Government

365. According to the information registered on 9 July 2018 provided by the authorities in the "lignite centre" of Ptolemaida – Kozani, 4 lignite mines function today and in the lignite centre of Megalopolis 3 mines.

366. In the past years, the use of lignite fell significantly, due to several factors such as : the decrease of the use of energy in general, because of the economic crisis, the priority given to renewable energy sources, the increase of the cost of the energy produced by lignite (these cost includes fees and the cost of purchase of CO2 emissions), the low price of natural gas and environmental restrictions set by EU and policies of gradually reducing the units of thermal power production.

367. In response to the Committee's query on the increase of the posts of environmental inspectors especially in northern Greece, it is indicated that the environmental inspection takes place both ex ante and ex post. Since the notification of the decision by the Committee, the legal framework and the requirements of "environmental license" has evolved with the adoption of the Law No.4014/2011 concerning the Environmental Inspectorate.

368. According to this legislation, every work or activity that is considered to be of category A or B (categories in accordance to environmental nuisance) is subject of proactive and regular inspections. The authorities that conduct inspections are: 1) the Special Agency of Environmental Inspectors, 2) the authority that issues the licence for the proactive inspections during the procedure of "environmental license", 3) the relevant authorities of

Decentralized Administrations and Prefectures for works and activities that fall within their territorial jurisdiction, irrelevant of the category of the work or activity, the Task Forces of Environmental Quality Control for works and activities that fall within their territorial jurisdiction and 5) the Environmental Auditors, who act upon an order of the above mentioned authorities. A more recent development is Law No.4409/2016 for the strengthening of the Inspection Body of Environment, Construction, Energy and Mines. According to par. 1 of this article, part of the economic sanctions goes to cover the expenses of inspections. According to article 51, relevant to Mines Inspectors, in case the exploiter or his/her representative is present during an inspection or in case he/she is absent, in spite of notification given, the Mines Inspector has the ability to take samples from all the sites of the project, to take pictures or to film, to proceed to measurements of physical, chemical and biological agents in the work environment with the purpose to inspect the compliance with mining or quarrying legislation, with legislation and regulations concerning the protection of safety and health of workers and of the public and environmental legislation in general. The police and judicial authorities and public authorities in general, as well as local authorities, are obliged to provide every kind of assistance asked from Mines Inspectors in the context of inspections. The same article introduces prison sentence for those who try to prevent Inspectors and for those who do not assist them, as obliged.

369. As far as fines are concerned, according to article 21 of Law No.4014/2011, economic sanctions for natural or legal persons that cause pollution or another form of environmental degradations or violate the provisions of the above mentioned law can amount to 500€ to 2.000.000€, irrelevant of the criminal or civil responsibility of those persons. The amount of the fine is relevant to the seriousness of the offence, the frequency, the relapse and the level of exceedance of the established level of emissions and the infringement of environmental terms and standard environmental commitments.

370. Important information concerning the status of the Inspectorate and the number of Environmental Inspectors are included in the last report issued by the Inspection Body of Environment, Construction, Energy and Mines. According to the introduction of this report, the number of inspector has decreased significantly the past years because of retirements and transfers. The number of Inspectors fell from 35 (in 2011) to 18 (by the end of 2015). Specifically, in the Department of Mines Inspectorate of Northern Greece in 2015, 5 engineers were employed (4 mining engineers and 1 mechanical engineer), 1 mechanical engineer of technological education and 2 administrative assistants.

371. According to the last report issued by the Inspection Body of Environment, Construction, Energy and Mines, the fines that were imposed by both Departments of Mines Inspectorate (Department of Southern Greece and Department of Northern Greece) amounted to 851,500€ for 65 cases. Of these 65 cases 12 were handled by the Department of Northern Greece. The fines imposed have a deterrent effect.

372. The report provides several information campaigns carried out by DEI (Public electricity Company) on the protection of the health of workers but also on the populations living in the mining regions. Annual preventive medical examinations are continuing for DEI staff in lignite centres. In this regard, the report mentions important distinctions attributed to the DEI for health and safety.

373. As far as environmental health education courses in primary and secondary schools are concerned, the Ministry refers to certain educational programs on environmental issues.

374. In relation with the violation of Article 3§2 of the Charter, the report indicates that there are five (5) Mines Inspectors, conducting preventive inspections and site visits. Inspections relate to health and safety issues of workers and nearby residents, industrial accidents and rational exploitation in accordance with approved technical studies and the Regulation on Mining and Quarrying Activities. According to the records, the number of accidents that occurred at the DEI lignite mine is the following: 10 in 2015, 15 in 2016 and 3 in 2017.

375. In relation to Article 2§4, the report indicates that Article 7 of the Regulation on Mining and Quarrying Activities (Ministerial Decision 2233/ O.G.1227B/14.6.2011) stipulates that changing rooms, restaurants, offices, lavatories, rest rooms and guard posts must be provided to miners and quarry workers. The same article defines the specifications of such facilities.

376. The Regulation on Mining and Quarrying Activities provides for adequate periods of rest for workers in mining projects (hence in lignite mining projects too).

3. Assessment of the follow-up

377. Referring to the findings from the perspective of Article 11 § § 1.2 and 3, the Committee considers that the existing institutional framework lays down a concrete and effective programme of environmental controls. It also notes that Act No.4014/2011 on Environmental Inspection Services and Act No.4409/2016 on strengthening the body of environmental inspectors ensure effective control in law and practice of environmental controls. With regard to Article 3§2, the Committee takes note of the authority's efforts to monitor the enforcement of regulations on health and safety at work as well as of statistics given on the number of accidents in the mining sector.

378. However, the report does not contain sufficient information demonstrating the deterrent nature of fines imposed on lignite mining companies in the event of environmental damage and asks for more information on the substance of these 65 cases. The Committee also notes the significant drop in inspectors due to retirement and transfers. Accordingly, the Committee requests that the next report provide clarifications demonstrating the deterrent nature of the imposed sanctions. It also wishes to obtain information on measures taken or envisaged to increase the number of inspectors who monitor the application of the rules on protection of health of the population living in regions of ignite exploitation. Finally, it invites the authorities to provide details on the number of inspectors who are monitoring the application of occupational health and safety regulations for lignite mine workers.

379. Pending receipt of the information requested, to be submitted in October 2019, the Committee defers its conclusion concerning articles 11 and 3 § 2 of the Charter of 1961.

380. With regard to Article 2§4 of the Charter, The Committee already noted in the Findings 2015 that the Collective Labour Agreement sets the duration of a working week at 40 hours and provides for an additional day as holiday.

381. The Committee recalled that compensation measures such as one additional day as holiday and a maximum weekly working time of 40 hours are considered inadequate in that they do not offer workers exposed to risks regular and sufficient time to recover. It also recalled that under no circumstances can financial compensation be considered a relevant and appropriate measure to achieve the aims of Article 2§4. The report does not provide any change to the assessed legislation.

382. The Committee finds that the situation has not been brought into conformity with Articles 2§4 of the 1961 the Charter. Therefore, it asks for information to be included in the report that is to be submitted in October 2019, on the measures taken to address the violations found in its decision.

General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, Complaint No. 65/2011, decision on the merits of 23 May 2012
Resolution CM/ResChS(2013)2

1. Decision of the Committee on the merits of the complaint

383. The Committee concluded that there was a violation of Article 4§4 of the 1961 Charter on the ground that the Section 17§5 of Act No. 3899 of 17 December 2010 did make no provision for notice periods or severance pay in cases where an employment contract, which qualified as "permanent" under the law, was terminated during the probationary period set at one year by the same law.

2. Information provided by the Government

384. The Government indicates in the information registered on 9 July 2018 that Section 17§5 of Act No. 3899 of 17 December 2010 continues to apply.

3. Assessment of the follow-up

385. In view of the fact that Section 17§5 of Act No. 3899 of 17 December 2010 has not been amended so as to remedy to the violation found in the instant case, the Committee finds that the situation has not been brought into conformity with the 1961 Charter. It recalls that in its decision Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, the Committee found a violation of Article 4§4 on the same grounds.

386. It will next assess the situation on the basis of the information to be submitted to it in October 2019 on the follow-up to this decision.

General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, Complaint No. 66/2011, decision on the merits of 23 May 2012
Resolution CM/ResChS(2013)3

1. Decision of the Committee on the merits of the complaint

387. In its decision the Committee concluded that there was a violation of Article 7§7 of the 1961 Charter on the ground that the apprentices were not entitled to a three weeks' annual holiday with pay within the one year of their special apprenticeship contract.

388. The Committee also concluded that there was a violation of Article 10§2 of the 1961 Charter on the ground that the provisions of Section 74§9 of Act No. 3863/2010 did not provide for an adequate system of apprenticeship and other systematic arrangements for training young boys and girls in their various forms of employment.

389. The Committee concluded that there was a violation of Article 12§3 of the 1961 Charter on the ground that the highly limited protection against social and economic risks afforded to minors engaged in 'special apprenticeship contracts' under Section 74§9 of Act No. 3863/2010 had the practical effect of establishing a distinct category of workers who are effectively excluded from the general range of protection offered by the social security system at large.

390. Lastly, the Committee concluded that there was a violation of Article 4§1 of the 1961 Charter in the light of the non-discrimination clause of the Preamble to the 1961 Charter on the ground that the provisions of Section 74§8 of Act 3863/2010 and after Section 1§1 of Ministerial Council Act No. 6 of 28 February 2012 provided for the payment of a minimum wage to all workers below the age of 25, which was below the poverty level and also constituted a discrimination.

2. Information provided by the Government

391. In the information registered on 9 July 2018, essentially the authorities indicate that in April 2016, the Ministry of Education in cooperation with the Ministry of Labour and the OAED, prepared the National Strategic Framework in order to upgrade vocational education and training. This framework includes strategic orientations, priority axes, and actions that will redesign and enhance Vocational Education, Training and Apprenticeship.

392. The Joint Ministerial Decision (JMD) No. 26385/2017 of the Ministers of Labour, Social Security and Social Solidarity, of Education, Research and Religious Affairs, of Economy and Development and of Finance entitled «Apprenticeship Quality Framework», ensures quality in Apprenticeship by defining the powers of parties involved, guaranteeing the rights of apprentices and defining the obligations of participating enterprises.

3. Assessment of the follow-up

- On the right to a three week annual leave with pay (Article 7§7 of the 1961 Charter)

393. The provision of article 74§9 of Law No. 3863/2010, according to which apprentices with the exception of provisions on the health and safety of workers, are not subject to the labour law provisions, is still into force. According to this legislation the apprentices are not

entitled to a three weeks' annual holiday with pay within the one year of their special apprenticeship contract.

- On an adequate system of apprenticeship (Article 10§2 of the 1961 Charter)

394. The Committee takes note of the National Strategic Framework aiming to upgrade vocational education and training as well as of the Joint Ministerial Decision on the Apprenticeship. Both tools aim to ensure an adequate system of apprenticeship and other systematic arrangements for training young person in their various forms of employment.

395. Therefore, the Committee finds that the situation has been brought into conformity with Article 10§2 of the 1961 Charter.

- On the limited protection against social and economic risks of minors engaged in 'special apprenticeship contracts' (Article 12§3 of the 1961 Charter)

396. The Committee notes that protection against social and economic risks afforded to minors engaged to in special apprenticeship contracts, continues to be limited and leads to the establishment of a distinct category of workers who are effectively excluded from the general range of protection offered by the social security system at large. Article 74§9 of Law No. 3863/2010 according to which apprentices are insured in the sickness insurance sector in kind and one percent (1%) against the risk of accidents, which was at the root of the violation found by the Committee, is still into force.

- On the payment of a minimum wage to all workers below the age of 25 (Article 4§1 of the 1961 Charter)

397. The Committee notes that the provision of section 1§1 of the Ministerial Council No. 6/28.2.2012, that was found to be in violation with the provisions of the Charter, is still into force.

398. In its decision Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, the Committee found that the situation in respect of the minimum wage for workers aged under 25 years has not changed, i.e. the extent of the reduction in the minimum wage, and the manner in which it is applied to all workers under the age of 25, is disproportionate even when taking into account the particular economic circumstances in question. The reduction of the minimum wage for workers under 25 years is excessive and constitutes discrimination on grounds of age.

399. The Committee finds that the situation has not been brought into conformity with Articles 7§7, 12§3 and 4§1 of the Charter. Therefore, it asks for information to be included in the report that is be submitted in October 2019, on the measures taken to address the violations found in its decision.

Federation of employed pensioners of Greece (IKA-ETAM) v. Greece, Complaint No. 76/2012, decision on the merits of 7 December 2012
Resolution CM/ResChS(2014)7

Panhellenic Federation of Public Service Pensioners (POPS) v. Greece, Complaint No. 77/2012, decision on the merits of 7 December 2012
Resolution CM/ResChS(2014)8

Pensioner's Union of the Athens – Piraeus Electric Railways (I.S.A.P.) v. Greece, Complaint No. 78/2012, decision on the merits of 7 December 2012
Resolution CM/ResChS(2014)9

Panhellenic Federation of pensioners of the Public Electricity Corporation (POS – DEI) v. Greece, Complaint No. 79/2012, decision on the merits of 7 December 2012
Resolution CM/ResChS(2014)10

Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece, Complaint No. 80/2012, decision on the merits of 7 December 2012.
Resolution CM/ResChS(2014)11

1. Decisions of the Committee on the merits of the complaints

400. In these decisions the Committee concluded that there was a violation of Article 12§3 of the 1961 Charter on the ground that the cumulative effect of the restrictive measures and the procedures adopted in respect of pension entitlements did not permit to maintain a sufficient level of protection for the pensioners. The cumulative effect of the restrictions, as described in the information provided by the complainant trade union, and which were not contested by the government, is bound to bring about a significant degradation of the standard of living and the living conditions of many of the pensioners concerned.

2. Information provided by the Government

401. In the information registered on 9 July 2018, the reports indicates that by virtue of Law No.4387/2016 on «Unified Social Security System – Reforming social security and pension system» (A΄85/12-5-2016, the social security system was restructured by means of a national pension and high replacement rates. It is based on the general principles of decent living and social protection ensuring adequate pension also for vulnerable social groups.

402. The national pension is not funded by social security contributions but directly from state budget while its full amount is set at 384€ on a monthly basis, paid in full provided that the person has paid contributions for at least twenty years and has 40 years of residence in Greece. National pension amount is reduced by 2% for every year which falls short of 20 years, provided however that contributions have been paid for at least 15 years.

403. The contributory pension amount is calculated on the basis of pensionable earnings, years of insurance contributions paid and replacement rates per year. In order to calculate the contributory part of a pension, the average monthly salary – income earned throughout the working life (Articles 8 and 28 of Law No.4387/2016) is taken into account as pensionable earnings and, in particular, from 1-1-2002 till the retirement application date.

404. Moreover, provision is made for new common rules for all disability pensions and disability benefits (paraplegia – quadriplegia, total invalidity).

405. The report refers as well to a maximum pension amount established for persons who were granted pension entitlement by virtue of the previous law (before the entry into force of Law 4387/2016).

406. Up until 31 December 2018, the amount paid for each individual monthly pension may not exceed 2.000€, thus, the payment of the amount exceeding 2.000€ shall be suspended till 31 December 2018. In cases where the pensioner is entitled to receive two or more pensions on any grounds from the Public Sector Fund, Public Bodies Corporate or any main or supplementary social insurance fund, the sum of their net amounts may not exceed 3.000€.

3. Assessment of the follow-up

407. The Committee takes note of the Law No. 4387/2016, as amended, which introduced the United Social Security System, a system that has three pillars: the national health system for health benefits, the national system of social solidarity for social welfare benefits and the national social security system for pensions and social security benefits.

408. However, it reserves its position on the assessment of Article 12§3 until a decision is taken in the Collective Complaint No. 165/2018 Panhellenic Association of Pensioners of the OTE Group Telecommunications v. Greece, registered on 30 April 2018, which relates to Articles 12§2, 12§3 (right to social security) and 23 (right of elderly persons to social protection) of the Revised European Social Charter. PAP-OTE maintains that Greece, in spite of the Committee's case-law and the national case-law, which had declared the legislation aimed at reducing pensions against the Constitution and the Charter, has not addressed the situation. The Committee takes note of the information provided in the report and by other sources.

409. Pending the decision, the Committee recalls that it has on many occasions been held that the income of the elderly should not be lower than the poverty threshold, defined as 50% of median equalised income as calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

410. The recent legislation adopted demonstrates that restrictions upon pensioners continue to be applied and that this will mean the pauperisation of an important segment of the population.

International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013
Resolution CM/ResChS(2013)15

1. Decision of the Committee on the merits of the complaint

411. The Committee concluded that there was a violation of Article 11§§1 and 3 of the 1961 Charter on the ground that in view of the pollution of the Asopos River authorities had failed to take appropriate measures to remove as far as possible the causes of ill-health and to prevent as far as possible diseases on the basis of: the deficiencies in the implementation of existing regulations and programmes regarding the pollution of Asopos River and its negative effects on health; the difficulties encountered in the co-ordination of the relevant administrative activities by competent bodies at national, regional and local level; the shortcomings regarding spatial planning; the poor management of water resources and waste; the problems in the control of industrial emissions and the lack of appropriate initiatives with respect to the presence of hexavalent chromium in the water.

412. The Committee also concluded that there was a violation of Article 11§2 of the 1961 Charter on the ground that in view of the pollution of the Asopos River the authorities did not take appropriate measures to provide advisory and educational facilities for the promotion of health.

2. Information provided by the Government

413. In the information registered on 9 July 2018, the authorities provide informations *on the implementation of environmental liability in the region of Asopos.*

414. It indicates that the Coordination Office for the Remediation of Environmental Damage (SYGAPEZ) has been established as the competent supervising Authority at central level to implement Directive 2004/35/EC on environmental liability, based on the principle «the polluter pays». Moreover, at Decentralized Administration level, the relevant competence lies with the Regional Committees for the Remediation of Environmental Damage (PEAPZ) established in all Regions throughout the country. They have a scientific and advisory role in determining preventive measures and/or remedial projects.

415. With regard to the implementation of environmental liability in Asopos River Basin, the Decentralized Administrations of Thessaly–Sterea Ellada (Central Greece) and Attica together with the SYGAPEZ have placed a total of nine (9) cases under environmental liability status in the said area (within or at the boundaries of Asopos River basin). Another case is under investigation.

416. Regarding the implementation of remedial projects:

In three (3) out of nine (9) documented cases, rehabilitation works have been completed and waste has been removed.

417. In particular, regarding pollution of underground aquifer by hexavalent chromium, following measurements performed at the plot of land of an aluminum rolls production plant in the region of Asopos, decisions were adopted providing the following:

(a) pilot remedial action for the underground aquifer,

(b) monitoring program for existing and new water exploration drilling projects,

(c) investigations in order to identify the source of pollution and

(d) immediate removal of such source once identified.

418. Moreover, given the fact that by virtue of Article 51, para 5 of Law No.4409/2016, SYGAPEZ's powers were strengthened because of the Environmental Inspectors' duties, the Environmental Inspectorate is in constant cooperation with the Environmental Inspection Department (TEP) of Southern Greece Inspectorate, Ministry of Environment and Energy, as well as with other local units. Thus, with the assistance of these units and by means of environmental inspections conducted in Asopos river basin, responsible undertakings are held environmentally liable, while sanctions are imposed for non-compliance with the preventive / remedial measures laid down in Article 17 of P.D. 148/2009.

419. From 2004 up to 2015 *in the area of Asopos River* 269 *Environmental Inspections have been carried out,* 193 Infringements established, 7.354.835 € fines imposed.
The Special Secretariat for Water (EGY), in compliance with Directive 2000/60/EC, has prepared the River Basin Management Plan for the Water District, Eastern Sterea Ellada.

Industrial waste management in the Asopos River Basin

420. By Joint Ministerial Decision No.20488/2010 (O.G. B΄749) as in force, the underground disposal of industrial effluents is prohibited in the area. Special conditions are established for their disposal in surface water, while emission limit values have been set both for total as well as for hexavalent chromium and other parameters.

421. The National Network for Monitoring the qualitative and quantitative status of surface water and groundwater is already established and operates effectively, including sampling sites for surface and groundwater in the Asopos River Basin, enabling thus the establishment of a coherent and comprehensive overview of water bodies' qualitative and quantitative status.

422. With regard to measurements on samples taken from surface waters at Asopos River, the latest samples were taken on 2/11/2016 and 8/7/2015. During the first sampling, samples were collected from the river and Mailis pipe, while during the second one, samples were also taken from other pipes that flow into Asopos River. The analyses at both samplings showed high chromium concentration (total and hexavalent) at Mailis pipe, while at the second sampling, no high concentrations in heavy metals were found at the other pipes.

423. With regard to the quality of potable water, as of 2016, the EYDAP is responsible for water supply to the entire Region of Tanagra Municipality. Constant samplings are carried out and analyses results are posted at the official website of the Municipality, while citizens are informed by any means possible.

424. Finally, the Municipality's relevant Services constantly monitor the state of the environment in the broader area of Asopos River, placing emphasis on the liquid and solid

waste management methods, and take actions as appropriate in order to address the problems that arise.

3. Assessment of the follow-up

425. With regard to the violation of article 11§2, in its Findings 2015, the Committee had taken note of the various measures aimed at providing information to the public and schools. It considered that the situation had been brought in conformity on this point.

426. The Committee takes note of all these measures, which constitute a progress.

427. However, it notes that the report does not provide information, on the implementation of the Joint Ministerial Decision No. 20488/2010 as he had requested in its Findings 2015 where he had recalled that not all enterprises concerned have requested a review of their environmental terms, while according to the said decision the procedure for allocating new environmental terms had to be completed during 2011.

428. Moreover, the Committee recalls that it stressed in its decision that given the scientific uncertainty related to the health problems caused by the ingestion of hexavalent chromium (Cr-6), the authorities should have already taken urgent measures, including - at least for the areas directly concerned by the pollution - the setting of maximum contaminant levels concerning Cr-6 in drinking water and water for agricultural use. In this regard it refers to an intervention of the Ombudsman in 2014 concerning the establishment of a threshold for Cr-6 in drinking water. The Ombudsman concluded that efficient measures of protection of public health have not been taken. The Ombudsman insisted to his suggestion, which concern: a) the legislative establishment of a threshold for Cr-6 in drinking water, b) the standardization of the Cr-6 analysis method to address measurement weaknesses, thus ensuring the reliability of the results and the publicity of measurement data, since access to information has a close nexus to the right to public health.

429. The Committee also refers to data given by the Environmental Inspectorate in the 2016 annual report issued by the Environmental Inspectorate, in November 2016, arguing that there are certain obstacles related to the operation of the authority and the checks that take place. More specifically, they claim that many cases, after the autopsies have not been forwarded because of several reasons. First, Environmental Inspectors many times are waiting reports from other entities and analyses from the General Chemical State Laboratory in order to substantiate their checks. Second, they have to face a lot of work load since they also have to answer to complaints and other legal remedies and in addition they also have to attend criminal courts as witnesses in the context of judicial examinations of older cases. Third, the inspectors handle cases beyond the schedule of the Department, such as prosecutor's orders, orders issued by the General Inspector of Public Administration and complaints. Fourth, they participate in joint task forces for the investigation of serious cases that do not produce regular work and, fifth, they perform preliminary investigations and participate as experts in procedures. Therefore the Committee invites the authorities to provide information on measures taken to strengthen the human resources of the Environmental Inspectorate and ensure a better coordination with other concerned bodies.

430. The Committee asks for information to be included in the report that is to be submitted in October 2019 on the implementation of all the measures that are currently being implemented in order to remedy the situation.

431. The Committee finds that the situation has not been brought into conformity with Article 11§§1 and 3 of the 1961 Charter.

IRELAND

IRELAND

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Ireland was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the merits of 2 December 2013;

- Association for the Protection of All Children (APPROACH) Ltd v. Ireland, Complaint No. 93/2013, decision on the merits of 2 December 2014;

- European Roma Rights Centre (ERRC) v. Ireland, Complaint No. 100/2013, decision on the merits of 1 December 2015.

European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the merits of 2 December 2013
Resolution CM/ResChS(2014)12

1. Decision of the Committee on the merits of the complaint

432. The European Committee of Social Rights concluded that there is a violation of Article 5 of the Charter on the grounds of the prohibition against police representative associations from joining national employees' organisations, having the factual effect of depriving them to negotiate on pay, pensions and service conditions represented by national organisations.

433. The Committee also found that there is a violation of Article 6§2 of the Charter on the ground that the police representative associations are not provided with a means to effectively represent their members in all matters concerning their material and moral interests.

434. The Committee also found that there is a violation of Article 6§4 of the Charter on the ground that the internal legislation amounted to a complete abolition of the right to strike.

2. Information provided by the Government

435. In the information registered on 31 October 2017, the authorities indicate that the public service pay negotiations which led to the Haddington Road Agreement1 (2013) also provided for a wide-ranging review of An Garda Síochána. The elements of this review dealing with industrial relations and pay-related issues were conducted on an independent basis. The outcome of this process, the Horgan Review, was published on 12 December 2016.

436. Separately, the Minister for Jobs, Enterprise and Innovation requested that the services of the Workplace Relations Commission (WRC) and the Labour Court be utilised, on an ad-hoc basis, to assist in the resolution of a dispute involving the Garda Representative Association (GRA) and Association of Garda Sergeants and Inspectors (AGSI) in An Garda Síochána in 2016. This intervention mirrored how the WRC and Labour Court would operate in relation to a dispute involving trade unions with full negotiation rights.

437. The Labour Court issued recommendations on 3 November 2016 in resolution of the dispute. The Government fully respected the Labour Court Recommendations and accepted them in full. As part of this process the Government agreed to progress the drafting of legislation to provide the Garda Associations with full access to the WRC and the Labour Court. The Garda Associations also accepted the Labour Court Recommendations and thereby came within the framework of the Lansdowne Road Agreement and the national collective bargaining process. The Government gave a further commitment that the Garda Associations would have full access to future national public service pay negotiations. In accordance with this commitment the Garda Associations, facilitated by the Workplace Relations Commission and the Department of Justice and Equality, were fully included in June/July 2017 in the collective bargaining process relating to the continuation of the Lansdowne Road Agreement, and took part in these negotiations on an equal basis with other public service representative bodies.

438. The analysis and recommendations which were contained in the Horgan Review were taken into account by a cross-Departmental Working Group set up in early 2017 with a remit to examine industrial relations structures for An Garda Síochána; to consider all the issues arising from providing access to the WRC and the Labour Court; and to identify the industrial relations mechanisms to be established in An Garda Síochána to support this change.

439. The first report of the working group was presented to Government in September 2017. The recommendations of the report, which were accepted by Government, included draft legislation to give permanent access to the WRC and Labour Court. A second and final report from the Working Group will deal with the internal industrial relations mechanisms, including structures that need to be put on place to support access to the WRC and Labour Court.

3. Assessment of the follow-up

440. The Committee takes note of all these measures, which constitute a progress.

441. However, it notes that the measures are in progress. Moreover, it notes that the report does not contain information on the follow up given to the complete abolition of the right to strike to the members of the police force which was found to be in violation of Article 6§4 of the Charter.

442. The Committee asks for information to be included in the report that is to be submitted in October 2019 on the adoption and implementation of all the measures envisaged in order to remedy the situation.

443. The Committee finds that the situation has not been brought into conformity with Articles 5, 6§2 and 6§4 of the Charter.

Association for the Protection of All Children (APPROACH) Ltd v. Ireland, Complaint No. 93/2013, decision on the merits of 2 December 2014
Resolution CM/ResChS(2015)9

1. Decision of the Committee on the merits of the complaint

444. In the decision the Committee found a violation of Article 17 of the Charter on the ground that the domestic law does not prohibit and penalise all forms of violence against children within the family, in certain types of care or certain types of pre-school settings, that is acts or behaviour likely to affect their physical integrity, dignity, development or psychological development or well-being.

2. Information provided by the Government

445. In the information registered on 31 October 2017, the authorities argue that in 2015, the Oireachtas passed the Children First Act, 2015. Section 28 of this Act specifically relates to corporal punishment and removes the common law defence of reasonable chastisement. This termination of the common law defence seeks to ensure that children have the necessary and full protection of the law in regard to corporal punishment in all settings, including the home. Section 28 was commenced by the Minister for Children and Youth Affairs on 11 December 2015.

446. With regard to children in foster care, residential care and children who are placed in the care of relatives under the 1991 Child Care Act, the removal of the defence of reasonable chastisement under Section 28 of the Children First Act 2015 has been further strengthened by secondary legislation which came into effect on 21 December 2015. This secondary legislation provides a legislative basis for previous guidelines and practice and now copper-fastens the existing prohibition on certain forms of discipline, including corporal punishment and treatment that is cruel, inhuman or degrading, in foster care, residential care settings or where children are in the care of relatives.

447. Furthermore, *Children First Guidance for the welfare and protection of children* (2017), which replaces previous editions, states:

"The Children First Act 2015 includes a provision that abolishes the common law defence of reasonable chastisement in court proceedings. This defence could previously be invoked by a parent or other person in authority who physically disciplined a child. The change in the legislation now means that in prosecutions relating to assault or physical cruelty, a person who administers such punishment to a child cannot rely on the defence of reasonable chastisement in the legal proceedings. The result of this is that the protections in law relating to assault now apply to a child in the same way as they do to an adult."

3. Assessment of the follow-up

448. The Committee takes note of the positive developments and in particular of the Acts which explicitly prohibit all corporal punishment of children in all circumstances affecting the

physical integrity, dignity, development or psychological well-being of a child, and therefore addressing the violation found by the Committee.

449. The Committee finds that the situation has been brought into conformity with the Charter and decides to terminate the examination of the decision.

European Roma Rights Centre (ERRC) v. Ireland, Complaint No. 100/2013, decision on the merits of 1 December 2015
Resolution CM/ResChS(2016)4

1. Decision of the Committee on the merits of the complaint

450. The European Committee of Social Rights concluded that there is a violation of Article 16 of the Charter on the following grounds:

- insufficient provision of accommodation for Travellers;
- many Traveller sites are in an inadequate condition;
- the Criminal Justice (Public Order) Act 1994 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;
- the Housing (Miscellaneous Provisions) Act 1992 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;
- evictions are carried out in practice without the necessary safeguards.

2. Information provided by the Government

451. In the information registered on 31 October 2017, the authorities indicate that the Irish Government has embarked on a number of initiatives since the Council of Europe European Committee on Social Rights decision in 2015.

452. The Programme for a Partnership Government (May 2016) outlines the new Government's intentions with regards to Traveller accommodation. A special working group will be established to audit the current delivery and implementation of local authorities Traveller Accommodation plans and consult with stakeholders on key areas of concern. The group should report a plan for the delivery of safe, culturally appropriate accommodation.

453. The new National Traveller and Roma Inclusion Strategy 2017-2018 commits the Irish Government to a number of actions aimed at enhancing accommodation for the Traveller community. The National Traveller Accommodation Consultative Committee (NTACC), which includes all key stakeholders, on publication of a review of funding, allocations, spending and outputs in relation to Traveller accommodation from the Housing Agency in July 2017, has agreed a sub-group to examine and analyse the findings of the review, with a view to preparing a report and recommendations for the Minister for Housing and Urban Renewal as soon as possible after its receipt. This will include a review of the Housing (Traveller Accommodation) Act 1998. The review was included as a specific action in the Action Plan for Housing and Homelessness (July 2016) aimed at tackling the broader challenges in housing in Ireland.

454. In June 2017, the Government announced a substantial increase in capital funding for Traveller specific accommodation, allocating 9 million€ in 2017, up from 5.5 million€ in 2016, with another 4.22 million€ for non-capital costs associated with traveller accommodation.

3. Comments provided by the Irish Human Rights and Equality Commission

455. The Irish Human Rights and Equality Commission ('the Commission') is both the national human rights institution and the national equality body for Ireland, established under the Irish Human Rights and Equality Commission Act 2014.

456. In a submission registered on 15 May 2018, it provides comments on the Government follow up given to the Committee's decision.

457. It indicates that on 1 March 2017, the Irish State formally acknowledged Travellers as a distinct ethnic group in Irish society.

458. On housing discrimination faced by Travellers, it indicates that a forthcoming research report on Discrimination and Inequality in Housing in Ireland finds that Travellers experience disadvantage in terms of high levels of discrimination and higher risks of homelessness.

459. With regard to Traveller accommodation conditions the Commission points to the inadequacy of Ireland's accommodation provision. It mentions the events of 10 October 2015, during which a fire broke out at a Traveller halting site in Carrickmines in South County Dublin in the early hours of the morning. The fire claimed the lives of ten Travellers, including a young mother who was pregnant and four children. Residents of the halting site in Carrickmines had been living with only basic services for over seven years, pending the provision of a permanent halting site, although no clear timeline appears to have been in place for its provision. A grandparent of two children orphaned by the fire has recently instituted legal proceedings against the relevant local authority, Dún Laoghaire-Rathdown County Council. The Commission has stated its view that 'this tragic event is a shocking illustration of the discriminatory barriers that members of the Traveller community experience in accessing appropriate accommodation, over and above those experienced by the rest of society.

460. In response to this tragedy, the National Directorate for Fire and Emergency Management launched an audit reviewing fire safety arrangements in Traveller accommodation.

461. 2144 units of Traveller accommodation were identified for the purpose of the review, and 2042 of these units were appraised. Among the findings of the audit is the statement that the separation distances between Traveller accommodation units was an 'issue of concern' in 57% of the sites appraised.

462. The Commission notes that reference is made in the Collective Complaint to the living conditions experienced by Travellers residing at the Spring Lane Halting Site in Cork City.

463. The Commission notes, in this regard, that a review of this halting site was conducted under the national fire safety audit, and that the site was deemed to contain 'ongoing fire risks'. While it appears that remedial steps were taken to improve fire safety arrangements on the halting site following the publication of the audit report, the Commission notes that '31 families, comprising 126 people, 59 of whom are under the age of 12 years', continue to reside in ten bays in cramped conditions on the site.

464. As indicated in the Collective Complaint, the site is in poor condition overall. It has flooding issues, lack of toilet facilities, a potholed road network, and sewage and vermin problems. Local Traveller representatives have stated their concern that 'there are people [living on the site] who have no running water or electricity and there are health and safety

issues'. While it appears that the site is due to be closed in 2020, the alternative accommodation to be provided by Cork City Council to the residents of the site is unclear.

465. Traveller families experiencing accommodation difficulties have instituted legal proceedings in the Irish courts seeking to compel local authorities to provide appropriate accommodation. Two examples of interest are discussed below.

Proceedings concerning Donegal County Council

466. The Commission has granted 54 clients with legal advice/ assistance, under Section 40 of the Irish Human Rights and Equality Commission Act 2014, 22 in relation to housing issues under the 'Traveller' discrimination ground in Irish equality law.

467. In 2017 the Commission represented a Donegal Traveller family, including two children with serious medical needs, living without basic facilities, including running water. Following the launch of a High Court challenge in August 2017, Donegal County Council agreed, in September 2017, to an order quashing its original decision to defer housing support to the family. The local authority also agreed to reconsider the family's social housing application.

468. The family, represented by the Commission, argued that the deferral of accommodation was disproportionate and adversely impacted on the rights of their children, such as their right to bodily integrity, to dignity, to freedom from degrading conditions, to nurture and support within the family structure, and to education. The Commission awaits a satisfactory resolution to the case.

Proceedings concerning Clare County Council

469. In September 2017, the High Court of Ireland granted a Traveller family leave to seek an order directing Clare County Council to provide the family with suitable and permanent accommodation under the 2014-2018 Traveller Accommodation Programme. The family, including nine children, had been living in unhealthy accommodation circumstances for three years, including rat and insect infestation, and sewage seepage around their home.

470. The High Court also ordered Clare County Council to conduct an assessment of the family's circumstances.

The RSM Report

471. The data presented in a research report on Traveller accommodation (the RSM Research Report) commissioned by the Housing Agency and published in June 2017 provides important information on:

- Traveller accommodation provision

472. The number of Traveller families living on 'Unauthorised Sites' increased from 444 to 534 (a 20% increase) between 2010 and 2015. The number of Traveller families living in 'Shared Housing' increased from 451 to 862 (i.e. by 91%) between 2010 and 2015. Since 2000, local authorities provided 6,394 units of accommodation to Traveller families, against their own target of 9,390 units, which represents a delivery rate of 68%.

- Funding of Traveller Accommodation Programmes (TAPs)

473. State funding to local authorities under Traveller Accommodation Programmes (TAPs) has reduced significantly since 2000. TAP funding for the 2014-2018 period was €33,968,211 or approximately 20% of the 2005-2008 allocation.

474. Since 2005, local authorities have been unable to spend €62,451,985 of TAP funding.

- Factors influencing under-performance by local authorities under TAPs

475. Problems in the planning applications process are the most significant issue limiting the delivery of TAPs. The TAP 'assessment of need' process underestimates the accommodation needs of Travellers. The Traveller Accommodation Act 1998/ TAPs do not provide for sanctions, penalties or other measures of enforcement for local authorities that do not implement their own targets.

476. It is noted that Traveller representatives assert that the assessment of need process 'significantly' underestimates this need. Two key problematic areas identified in relation to the assessment of need process are (i) lack of consultation with Travellers, and (ii) lack of forward planning for family growth. Travellers and their representatives have no say, in some cases, in relation to where halting sites are built, resulting in sites being located away from shops, schools and transport, causing the further isolation of Travellers.

4. Assessment of the follow-up

477. The Committee finds that Ireland has made progress in the provision of accommodation for Travellers, access to housing and the refurbishment of Traveller accommodation. However, despite this progress there is still a substantial deficiency in providing accommodation for Travellers.

478. As indicated in the comments provided by the Irish Human Rights and Equality Commission, a number of sites are in poor condition, lack maintenance and are badly located.

479. The legislation permitting evictions fails to provide for consultation with those to be affected, reasonable notice of and information on the eviction. Nor does all the legislation require the provision of alternative accommodation or adequate legal remedies. As regards legal remedies, there is no legal aid for those threatened with eviction.

480. The Committee asks for information on the follow-up given to its decision that will be submitted in October 2019 on the adoption and implementation of all the measures envisaged in order to remedy the situation.

481. The Committee finds that the situation has not been brought into conformity with Article 16 of the Charter.

ITALY

ITALY

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Italy was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

These are the decisions concerned:

- European Roma Rights Centre v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005;

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

- International Planned Parenthood Federation-European Network (IPPF-EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013;

- *Confederazione Generale Italiana del Lavoro (CGIL)* v. Italy, Complaint No. 91/2013, decision on admissibility and the merits of 12 October 2015;

- *Associazione Nazionale dei Giudici di Pace (ANGdP)* v. Italy, Complaint No. 102/2013, decision on the merits of 5 July 2016;

- *"La Voce dei Giusti"* v. Italy, Complaint No. 105/2014, decision on the merits of 18 October 2016.

European Roma Rights Centre v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005
Resolution ResChS(2006)4

Centre on Housing Rights and Evictions (COHRE) v Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010
Resolution CM/ResChS(2010)8

1. Decision of the Committee on the merits of the complaint

482. These two decisions concern the rights of Roma and Sinti in Italy, particularly their living conditions in camps and the circumstances surrounding their eviction. The Committee has therefore decided to assess jointly the measures taken in the context of the follow-up to these decisions.

European Roma Rights Centre v. Italy (Complaint No. 27/2004)

Violation of Article E read in conjunction with Article 31§1, 31§2 as well as 31§1 and 31§3

483. The Committee concluded that there was:

a) a violation of Article E read in conjunction with Article 31§1 on the ground that Roma camps were insufficient and inadequate;
b) a violation of Article E read in conjunction with Article 31§2 on the grounds that the procedures for the eviction of Roma were inadequate and Roma people had been victims of unwarranted violence during these procedures.
c) a violation of Article E taken in conjunction with Articles 31§1 and 31§3 because of the lack of permanent dwellings for Roma.

Centre on Housing Rights and Evictions (COHRE) v Italy (No. 58/2009)

Violation of Article E read in conjunction with Articles 31§1, 31§2, 31§3, 30, 16, 19§1, 19§4.c and 19§8

484. The Committee concluded that there was:

a) a violation of Article E read in conjunction with Article 31§1 on the ground that the situation with regard to the living conditions of Roma and Sinti in camps or similar settlements in Italy was inadequate;
b) an aggravated violation of Article E read in conjunction with Article 31§2 because of the practice of evicting Roma and Sinti and the violent acts often accompanying such evictions;
c) a violation of Article E read in conjunction with Article 31§3 because of the segregation of Roma and Sinti in camps;
d) a violation of Article E read in conjunction with Article 30 on the ground that there was discriminatory treatment with regard to the right to vote or other forms of citizen participation for Roma and Sinti and that this was a cause of marginalisation and social exclusion;
e) a violation of Article E read in conjunction with Article 16 on the following grounds:

- Roma and Sinti families did not have access to adequate housing;
- Roma and Sinti families were not protected against undue interference in family life.

f) an aggravated violation of Article E read in conjunction with Article 19§1 on the ground that xenophobic political rhetoric or discourse was used against Roma and Sinti in a situation which was the result of direct action by the authorities leading to stigmatisation;
g) a violation of Article E read in conjunction with Article 19§4 c) because of the violation of Article E read in conjunction with Article 31 ;
h) a violation of Article E read in conjunction with Article 19§8 because of the expulsion of Roma and Sinti.

2. Information provided by the Government

485. In the report registered on 16 February 2018, the Government referred primarily to the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities (RSC), set up in 2012, for which the Italian National Office Against Racial Discrimination (UNAR) is the national focal point.

486. According to the Government, the Strategy includes a "series of potential solutions to the problem of RSC with access to housing, based on a participatory process designed to overcome emergency fixes and large mono-ethnic settlements once and for all, while placing the desired emphasis on family reunion".

487. In this connection, the Government points out that the state of emergency and the implementing orders which were at issue in Complaint No. 58/2009 no longer apply, following a decision by the Court of Cassation in 2013 recognising their unlawful nature (judgment 9687/2013).

488. The powers and resources linked with the implementation of welfare and inclusion policies have been transferred to the municipal authorities and the regions. Procedures for the allocation of social housing have been started and completed, and action has been taken to renovate stopping places or build new ones, along with projects to support self-conversion or self-build projects. These activities and projects also cover school and vocational training integration activities, together with financial support measures.

489. As part of the Partnership Agreement for the 2014-2020 programming period, a Round Table on Social Inclusion has been set up and one of the specific priority aims it has identified is "to facilitate Roma access to services and enhance their participation in the community and institutions by attempting to promote both the effective social inclusion of the RSC Community and their full potential to exercise fundamental rights".

490. As to housing, the Government refers to the course of action set by the UNAR and talks of the launch in 2016 of the National Roma Platform (PNR), which is intended to promote dialogue between institutions and the Roma communities. Furthermore, the Government states that a survey has been carried out with the Association of Municipalities (ANCI) and the national statistics office (ISTAT) on the settlement of RSC populations in Italy. According to the Government, the results of this survey should make it possible for policies to be drawn up with a view to solving the problem of mono-ethnic settlements. A meeting on fundamental measures to be taken to deal with Roma camps was held in early 2017 so as to examine with the UNAR what the needs of the municipalities concerned are. Other future measures are also mentioned in connection with the implementation of the Strategy and its follow-up alongside the European Programme for 2014-2020. Among the aims of the measures planned and supported by the European Social Fund are guaranteeing minimum social protection levels for marginalised communities such as the

Roma, over and above current local and regional disparities.

491. The Government also describes the initial results achieved as part of the implementation since 2013 of the National Operational Plan for Inclusion, relating to the integration of Roma children in schools in certain towns. According to the initial results, the number of children living in residential or social housing has risen from 26 to 40%, school attendance has grown, and relations between families and teachers have improved.

492. With regard to evictions, the Government refers to the Asylum, Migration and Integration Fund, which can also take measures to promote the social inclusion of Roma and the monitoring activities conducted by the Media and Internet Observatory concerning the dynamics of the evictions of RSC people in Italy. In this connection, the Government states that the UNAR is in the process of drawing up non-binding guidelines for local authorities "in which it is clearly stated how to carry out camp eviction procedures lawfully … and how to resettle people while showing full and due regard for fundamental human rights and international directives". A joint working group has also been appointed to examine possible diplomatic, regulatory or administrative measures to solve the problem of de facto statelessness, particularly in connection with the legal status of Roma from the former Yugoslavia.

493. As to the protection of Roma from discrimination and xenophobia, the Government points out that since the establishment in 2010 of the Observatory for Security against Discriminatory Acts (OSCAD), which is answerable to the Ministry of the Interior, foreign victims of discrimination have had access to an accelerated procedure. A solidarity fund for the legal protection of discrimination victims was also set up in 2014 with a view to promoting social integration and combating discrimination of all kinds (on grounds of race or ethnic origin, religion, beliefs, age, disability, sexual orientation or gender identity). The fund provides discrimination victims with access to legal protection by advancing their legal costs, which are reimbursed by means of a rota system if the courts find in their favour. In addition, a national monitoring centre against discrimination in the media and on the Internet (the Media and Internet Observatory) has been founded in order to curb the spread of discrimination against RSCs through the media. In the absence of any clear definition of hate propaganda at national and international level and bearing in mind the legislation in force, the Observatory assesses and selects, opting to report to the judicial authorities only content which clearly incites people to violence, requesting that it be withdrawn from the social networks, or to address directly the administrator of the site hosting such clearly discriminatory content. Any other potentially discriminatory content is listed in the Observatory's monthly reports, thus providing an overall picture of on-line hate propaganda.

494. The Government also refers to the activities carried out by the UNAR with the Council of Europe, particularly its Ad Hoc Committee of Experts on Roma Issues (CAHROM), and with the European Union. A detailed presentation of the measures taken and the activities carried out by Italy to implement the national strategy, both at national and at local level, figures in the 2015 and 2016 UNAR reports, appended to the Government's report.

3. Assessment of the follow-up

A) Living conditions in camps, segregation, access for families to adequate housing (Article E, read in conjunction with Articles 31§1, 31§3, 16, 19§4.c)

495. In its previous assessment, the Committee already took note of the adoption of the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities 2012-2020 and asked for more details about its implementation and the situation with regard to the living conditions of Roma and Sinti in camps or similar settlements.

496. It takes note of the detailed information given in the report on planned or current measures being devised or implemented in co-operation with the local authorities at the level of the municipalities and regions. It notes that progress has been made through work with the statistics office and national association of municipalities on the census of the populations concerned, their geographical distribution and their housing situation, with a view to better identifying their needs, adjusting measures accordingly and ensuring follow-up of their implementation. According to the Fourth Opinion on Italy, adopted on 19 November 2015 by the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM Advisory Committee), between 60 and 80% of Roma live in fixed abodes and around 40 000 live in camps commonly referred to as "nomad camps", while only 3% of Roma in Italy lead an itinerant lifestyle. According to more recent data, fewer than 30 000 Roma still live in camps and this number is falling (according to a report in 2017 by the *Associazione 21 luglio*, an NGO working in this field).

497. The Committee also notes the examples of good practices and the progress made in certain municipalities. However, apart from these isolated examples, the information provided is not sufficient to conclude that there has been any general improvement in the situation with regard to the living conditions of Roma and Sinti in camps and similar settlements. Furthermore, most of the measures described in the report are still at an initial stage, which makes it impossible to assess their impact. The Committee also notes from the Fourth Opinion on Italy by the FCNM Advisory Committee cited above that *"the implementation of the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities of 2011 has been slow as no dedicated funding has been earmarked for its implementation. No specific legislation for the protection from discrimination of these communities has been adopted, in spite of numerous proposals being submitted in Parliament. Roma, Sinti and Caminanti remain socially and economically marginalised. Residents of segregated housing, in particular camps commonly referred to as "nomad camps", continue to live in deplorable conditions, in spite of court rulings confirming that assigning housing in prefabricated containers surrounded by fencing constitutes discrimination"*. The *Associazione 21 luglio* report cited above confirms that there are still many problems with the implementation of the measures provided for.

498. Moreover, the Committee notes from Resolution CM/ResCMN(2017)4 of 5 July 2017 on the implementation of the Framework Convention for the Protection of National Minorities by Italy, that the Committee of Ministers of the Council of Europe has recommended that Italy should "*take urgent steps to elaborate and adopt without delay a specific legislative framework, at national level, for the protection of the Roma, Sinti and Caminanti communities with due consultation of representatives of these communities at all stages of the process; make sustained and effective efforts to prevent, combat and punish the inequalities and discrimination suffered by persons belonging to the Roma, Sinti and Caminanti communities, particularly women and girls; improve the living conditions of persons belonging to these communities, in particular by creating conditions which would allow residents to move out of the camps commonly referred to as 'nomad camps' (both 'authorised' and 'unauthorised') to adequate social housing; ensure that all Roma, Sinti and Caminanti children, irrespective of their status, have full access to and are fully included in mainstream education; take resolute measures to combat early school dropout and underachievement". The Committee of Ministers also made recommendations to "review without further delay the mandate and status of the Office for the Promotion of Equal Treatment and the Fight against Racial Discrimination (UNAR)" and to "consult*

representatives of the Roma, Sinti and Caminanti communities, including women, in all projects and activities concerning them, in particular those implemented in the framework of the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities 2012-2020, at national, regional and local levels".

499. Similarly, in its concluding observations of May 2017 on the sixth periodic report of Italy, the UN Human Rights Committee expressed its concern about persistent discrimination against the RCS communities and their continuing segregation.

500. In the light of this information, the Committee asks for up-to-date information in the next report on the results obtained in the implementation of the various projects under way, with the aim of overcoming segregation and helping these populations to gain access to satisfactory living conditions. It also asks for up-to-date figures on the supply and demand of social housing for Roma and Sinti.

501. In the meantime it considers that the situation has not been brought into conformity with the Charter with regard to the living conditions of Roma and Sinti in camps and similar settlements, their segregation and access for families to adequate housing (Article E read in conjunction with Article 31§1 for Complaints Nos. 27/2004 and 58/2009, Article E read in conjunction with Articles 31§1 and 31§3 for Complaint No. 27/2004 and Article E read in conjunction with Articles 31§3, 16 and 19§4.c for Complaint No. 58/2009).

502. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

B) Clearing of camps (Article E, read in conjunction with Articles 31§2 and 16)

503. The Committee takes note of the information provided on the monitoring activities conducted by the Media and Internet Observatory regarding the dynamics of evictions of RSC people and the preparation by the UNAR of guidelines on eviction for local authorities. It notes, however, that no detailed information is provided on eviction procedures applying to Roma and Sinti and any measures taken to protect these people from acts of violence.

504. It notes in this connection that the aforementioned report by *Associazione 21 luglio* states that there were 230 eviction operations in 2017 despite the absence of an appropriate regulatory framework. In its concluding observations of May 2017 on the sixth periodic report of Italy, the UN Human Rights Committee expressed its concern about the persistent practice of forced evictions against members of the RSC communities and recommended that Italy should adopt measures designed to avoid these forced evictions and provide these communities with sufficient legal protection if they are evicted, together with adequate alternative housing.

505. In the light of this information, the Committee asks for up-to-date information to be included in the next report on the increase or decrease in the number of evictions involving RSC communities and the legal safeguards applying to them.

506. It considers in the meantime that the situation has not been brought into conformity with the Charter with regard to the eviction procedures for RSC communities (Article E read in conjunction with Article 31§2 for Complaints Nos. 27/2004 and 58/2009, and Article E read in conjunction with Article 16 for Complaint No. 58/2009).

507. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

C) Marginalisation and social exclusion (Article E, read in conjunction with Article 30)

508. In its previous assessment the Committee took note of the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities 2012-2020, one of whose aims is to increase the involvement of Roma, Sinti and Caminanti communities in decision making at national and local level.

509. The Committee notes the new information submitted concerning the implementation of the Strategy and the progress made on school attendance. However, the information provided is not sufficient to conclude that there has been a general improvement in the situation with regard to the marginalisation and social exclusion of Roma and Sinti. Furthermore, most of the measures described in the report are still at an initial stage, which makes it impossible to assess their impact.

510. It asks for up-to-date information in the next report about the results achieved through current measures.

511. It finds in the meantime that the situation has not been brought into conformity with the Charter on this point (Article E, read in conjunction with Article 30 for Complaint No. 58/2009).

512. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

D) Hate speech (Article E, read in conjunction with Article 19§2)

513. The Committee refers to its previous assessment, in which it already noted a number of the measures taken or planned to combat prejudice against Roma and xenophobic and racist speeches. It takes note of the establishment in 2014 of a Solidarity Fund for the protection of discrimination victims and the creation of a Media and Internet Observatory.

514. It notes, however, from the Fourth Opinion on Italy by the FCNM Advisory Committee, that anti-Roma messages are still spread by political leaders, election candidates, MEPs and local elected representatives. [According to the FCNM Advisory Committee, "the tolerance on the part of the authorities for inflammatory anti-Roma statements stimulates an attitude of impunity in which the far right extremists feel emboldened to stage anti-Roma demonstrations and physical attacks".] It also notes that recommendations on this matter were made by the Committee of Ministers of the Council of Europe, in Resolution CM/ResCMN(2017)4 of 5 July 2017 on the implementation of the Framework Convention for the Protection of National Minorities by Italy, and by the UN Human Rights Committee, in its concluding observations of May 2017 on the sixth periodic report of Italy. Furthermore, in its annual report for 2017 the *Associazione 21 luglio* points out that the number of reported incidents of hate speech against Roma increased between 2016 and 2017 (from 175 to 182).

515. In the light of this information, the Committee repeats its request for clarification about the measures taken, particularly with regard to racist misleading propaganda against Roma and Sinti indirectly allowed or directly emanating from the authorities. It considers in the meantime that the situation has not been brought into conformity with the Charter in this respect (Article E, read in conjunction with Article 19§2 for Complaint No. 58/2009).

516. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

E) Expulsion from the country (Article E, read in conjunction with Article 19§8)

517. The Committee takes note of the termination of the "security measures" linked with the state of emergency, which had given rise to the expulsion of a number of Roma from the country. It also notes that measures are being considered to limit or resolve cases of statelessness.

518. In the light of decision 9687/2013 of the Court of Cassation, it considers that the situation has been brought into conformity with the Charter with regard to this violation (Article E, read in conjunction with Article 19§8 for Complaint No. 58/2009).

International Planned Parenthood Federation-European Network (IPPF-EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013
Resolution CM/ResChS(2014)6

***Confederazione Generale Italiana del Lavoro (CGIL)* v. Italy, Complaint No. 91/2013, decision on admissibility and the merits of 12 October 2015**
Resolution CM/ResChS(2016)3

1. Decision of the Committee on the merits of the complaint

519. These two decisions are related to the organisation of sexual and reproductive health services in Italy, particularly the insufficient number of non-objecting doctors in services carrying out voluntary terminations of pregnancy. The Committee has therefore decided to assess jointly the measures taken in the context of the follow-up to these decisions.

International Planned Parenthood Federation-European Network (IPPF-EN) v. Italy, (No. 87/2012)

Violation of Article 11§1 and violation of Article E read in conjunction with Article 11 of the Charter

520. The Committee found that there was:

a) a violation of Article 11§1 of the Charter, because with respect to the women who decide to terminate their pregnancy, the competent authorities did not take the necessary measures to ensure that, as provided by Section 9§4 of Law No. 194/1978, abortions requested in accordance with the applicable rules are performed in all cases, even when the number of objecting medical practitioners and other health personnel is high;

b) a violation of Article E read in conjunction with Article 11 of the Charter because of the discrimination suffered by women wishing to terminate their pregnancy, who are forced, at risk to their health, to move from one hospital to another within the country or to travel abroad because of a lack of non-objecting health staff in a number of hospitals in Italy.

***Confederazione Generale Italiana del Lavoro* (CGIL) v. Italy, (No. 91/2013)**

Violation of Articles 11§1, E read in conjunction with Article 11, 1§2 (i) first ground and 26§2 of the Charter

521. The Committee found that there was:

a) a violation of Article 11§1 of the Charter because of shortcomings in the services for the termination of pregnancies in Italy, which make access to these services difficult for the women concerned despite the applicable legislation, and force them in some cases to seek alternative solutions, at risk to their health;

b) a violation of Article E read in conjunction with Article 11 of the Charter because of the discrimination suffered by women wishing to terminate their pregnancy, who are forced, at risk to their health, to move from one hospital to another within the country or to travel abroad because of shortcomings in the implementation of Law No. 194/1978.

c) a violation of Article 1§2 of the Charter, first ground, because of the difference in treatment between objecting and non-objecting medical practitioners;

d) a violation of Article 26§2 of the Charter because of the failure of the government to take any preventive training or awareness-raising measures to protect non-objecting medical practitioners from moral harassment.

522. It also found that there was no violation of Article 1§2 (ii), second ground, Article 2§1 and Article 3§3 of the Charter and that no separate issue arose under Article E read in conjunction with Articles 2§1, 3§3 and 26§2 of the Charter.

2. Information provided by the Government

523. In its report, registered on 16 February 2018, the Government stated that it was fully committed to the implementation of Law No. 194 of 22 May 1978, thus ensuring, in accordance with the law, that all women who so requested would have access to voluntary termination of pregnancy and that all medical staff would enjoy the right to conscientious objection provided for in Article 9 of the Law.

524. The Government draws particular attention to the constant decline in the number of voluntary terminations since the implementation of Law No. 194/1978, which has resulted in a decrease in non-objecting gynaecologists' workload. According to a report by the Italian parliament on the application of this Law, sent on 7 December 2016, between 1983 and 2014 the number of terminations per week by non-objecting gynaecologists decreased by half at national level, from 3.3 per week per gynaecologist to 1.6.

525. The Government points to the establishment in 2013 of a Ministry of Health technical committee, in which all regional councillors and the National Health Institute were invited to participate, to monitor the full application of the law throughout the country through a specific survey on abortion activities and the exercise of the right to conscientious objection by gynaecologists, at the level of each hospital and the family planning services, in order to identify any problems. This committee's work continued in 2016. Common parameters were set and all the authorities concerned were invited to draw up regional reports on the application of the law, taking account where appropriate of the specific features of the geographical area in question.

526. From these surveys, it emerged that in 2014 there were 654 hospitals with an obstetrics and/or gynaecology department, of which 390 (or 59.6%) offered abortions (60% in 2013). Only in three cases (the Autonomous Province of Bolzano and the Regions of Molise and Campania) was there an abortion service in fewer than 30% of the establishments surveyed. The number of abortions in 2014 was 96 578, compared to 492 127 live births. According to the Government, if a comparison is made between the number of maternity wards and abortion services in relation to the number of women of reproductive age, the number of abortion services is geared perfectly to the birth/abortion ratio. As to the regions with a particularly low number of abortion services in comparison to maternity wards, the Government states that this should change once the maternity wards overseeing fewer than 500 childbirths per year have been done away with.

527. With regard to the average number of terminations by each non-objecting gynaecologist per week, the Government points out that the average weekly workload has decreased by about one half since 1983 and amounted to about 1.6 abortions per week in 2014 (96 758 terminations for 1 408 non-objecting gynaecologists over 44 working weeks) but rising to 4.7 per week in Molise or 9.4 if the workload is calculated in terms of full time equivalent (FTE) positions. According to the data, the situation is relatively uniform in each region apart from a few health units (three out of a total of 140) where average weekly

termination by non-objecting gynaecologists largely exceed the regional average, reaching figures between 12.2 and 15.8 per week (in Apulia, Piedmont and Sicily). Partial data from 2016 also show that a number of non-objecting gynaecologists did not carry out terminations (11% at national level in the regions surveyed) because they were assigned to other services, but could be redeployed to abortion services if needed.

528. According to the Government, these data prove that problems with access to abortion services are not generally the result of a lack of non-objecting doctors but probably stem from the situation in specific establishments or regional health policy choices. In this connection, the Government points out that waiting times are not necessarily longer in regions with fewer non-objecting doctors. According to the figures provided, which confirm the disparities between regions, waiting times decreased overall between 2006 and 2014 whereas the number of objecting gynaecologists increased slightly (from 69.2% to 70.7%) and the rate and number of abortions fell.

529. Based on data for 2016 covering 85% of family planning clinics, family planning activities in respect of abortions have improved, according to the Government, which reports nonetheless that there is significant diversity between regions in the use of family planning services for abortion-related matters. Although account needs to be taken of the survey's limitations, the data show that the number of conscientious objectors working for family planning clinics is much lower than in hospitals (15% compared to 70.7%) and that the number of pre-abortion interviews (76 855 in total) is lower than the number of abortion certificates delivered (31 277), which could indicate, in the Government's view, that practical measures have been taken to help women "to eradicate the causes prompting them to terminate their pregnancy".

3. Assessment of the follow-up

A) Discrimination against women wishing to terminate their pregnancy and violation of their right to health because of problems with access to abortion services (Article 11§1 and Article E, read in conjunction with Article 11§1)

530. The Committee takes note of the Government's undertaking to ensure that Law No. 194/1978 is fully implemented together with the figures it provides on the number of facilities conducting abortions, the number of doctors involved and waiting times.

531. With regard to the decrease in the numbers of terminations of pregnancies carried out, the Committee considers that these data cannot be interpreted in any certain terms [as the decrease could also reflect problems with access to these services]. In this connection it notes that in its concluding observations of May 2017 on the sixth periodic report of Italy, the UN Human Rights Committee expressed concern about the poor access to abortion services because of the large number of objecting doctors and their distribution throughout the country, and the risk that this may give rise, in significant proportions, to recourse to clandestine abortions. This Committee recommended that Italy should "take the measures necessary to guarantee unimpeded and timely access to legal abortion services in its territory, including by establishing an effective referral system for women seeking such services".

532. The Committee also notes that although the situation seems to be improving, there are still major disparities at local level. It asks for information in the next report on the measures taken to reduce the remaining disparities at local and regional level and the

results obtained, in the light of updated data.

533. It considers in the meantime that the situation has not yet been brought entirely into conformity with the Charter with regard to discrimination against women wishing to terminate their pregnancy and the violation of their right to health because of problems accessing abortion services (Article 11§1 and Article E, read in conjunction with Article 11§1 for Complaints Nos. 87/2012 and 91/2013).

534. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

B) Discrimination against non-objecting gynaecologists and failure to protect such doctors from moral harassment (Articles 1§2 and 26§2 of the Charter)

535. The Committee takes note of the information provided by the Government, particularly the information on the numbers of objecting and non-objecting practitioners, their geographical distribution and the average workload of non-objecting practitioners.

536. It notes that the situation has clearly improved with regard to the average workload of non-objecting practitioners given the comparison between the national average in 1983 and 2014, which constitutes a positive development in respect of the situation previously assessed.

537. It notes however that there are still major disparities at local level, especially as a number of non-objecting doctors are not assigned to abortion services or do not work full time. The Committee asks for information in the next report on the measures taken to ensure that non-objecting practitioners are more evenly spread throughout the country and are actually available in abortion services.

538. The Committee also notes that no information has been provided about any awareness-raising or prevention measures concerning harassment. Under Article 26§2 States Parties are required to take appropriate preventive measures against moral harassment. In particular, they should inform workers about the nature of the behaviour in question and the available remedies (Conclusions 2010, Albania, Article 26§2; Conclusions 2007, Statement of Interpretation on Article 26§2). States Parties are required to take all necessary preventive and reparatory measures to protect employees against recurrent reprehensible or distinctly negative and offensive actions directed against them at the workplace or in relation to their work. From a procedural standpoint, the effective protection of employees may require a shift in the burden of proof to a certain extent, making it possible for a court to find in favour of the victim on the basis of sufficient prima facie evidence and the conviction of the judge or judges (Conclusions 2007, Statement of Interpretation on Article 26§2). The Committee asks for information in the next report on the preventive and reparatory measures adopted to protect non-objecting staff against this type of harassment, any policy measures introduced and the practical application of existing laws by the relevant authorities or courts which secures the necessary protection in practice.

539. It considers in the meantime that the situation has not been brought into conformity with the Charter with regard to discrimination against non-objecting doctors (Articles 1§2 and 26§2 of the Charter for Complaint No. 91/2013).

540. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

***Associazione Nazionale dei Giudici di Pace (ANGdP)* v. Italy, Complaint No. 102/2013, decision on the merits of 5 July 2016**
Resolution CM/ResChS(2017)3

1. Decision of the Committee on the merits of the complaint

Violation of Article E read in conjunction with Article 12§1 of the Charter

541. The Committee found that there was a violation of Article E read in conjunction with Article 12§1 of the Charter against persons who performed the duties of Justice of the Peace and had no alternative social security coverage, insofar as such persons, while performing duties equivalent to those of tenured judges, were denied social security protection (for sickness, maternity and old-age pension). *

2. Information provided by the Government

542. In the report registered on 16 February 2018, the Government reports that a new legislative decree – No. 116 of 13 July 2017 – has been adopted, including transitional rules on serving lay judges.

543. Under this decree, justices of the peace and lay deputy prosecutors are appointed according to criteria and requirements prescribed by the law, in contrast with professional judges, who are recruited through competitive examinations. They perform an entirely temporary function for a four-year term, renewable once. In no respect does the function imply a public employment relationship. It gives rise to the payment of an allowance – which does not constitute remuneration – the amount of which is made up of a fixed component and a variable component depending on results, which may be combined with income from other professional activities or pension. To ensure that the function is compatible with other professional activities, "*no lay judge may be required to work more than two days per week in total*".

544. The Government states that Article 25 of the legislative decree referred to above grants minimum social protection for lay judges in relation to certain life events, while specifying that illness, accidents or pregnancy do not imply exemption from their duties, but instead their suspension. In particular, in the event of illness or accident, the exercise of office and payment of the allowance are suspended for a period not exceeding six months. Likewise, in the event of maternity, the exercise of office and the payment of the allowance are suspended before and after childbirth (for two months before and three months after or one month before and four months after). Article 25§3 of the legislation provides for compulsory affiliation to the separate management scheme of the INPS (Article 2§26 of Law No. 335/1995), which is a pension fund, usually intended to grant compulsory social cover to atypical, self-employed or pseudo-self-employed workers. The contribution rate corresponds to that of self-employed workers, namely 25% (Article 1§165 of Law No. 232/2016). These provisions do not apply to members of the Italian bar association as it is already compulsory for them to be covered by the National Lawyers' Welfare and Assistance Fund (under Article 21§8-9 of Law No. 247/2012).

545. The Government considers that, in view of this legislation, there is no longer any discrimination against the complainant category of workers under Article 12 and E of the European Social Charter.

3. Assessment of the follow-up

546. The Committee notes the new measures taken, which introduce compulsory social coverage for lay judges who are not already covered by other social insurance schemes. It considers this to be a positive development in respect of the situation previously assessed and it encourages the Italian authorities to pursue their efforts in this direction.

547. It takes note, however, of the restrictions which apply in the event of sickness or maternity, namely the suspension of office and the payment of the allowance, and asks for clarification in the next report as to whether this means that no maternity or sickness benefit is paid to lay judges who are not covered by other social insurance schemes, including in cases of incapacity arising from sickness or accident having a causal link with the exercise of the office of judge.

548. Pending receipt of this information, it considers that this situation has not been brought into conformity with the Charter with regard to the violation of Article E read in conjunction with Article 12§1.

549. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

***"La Voce dei Giusti"* v. Italy, Complaint No. 105/2014, decision on the merits of 18 October 2016**
Resolution CM/ResChS(2017)2

1. Decision of the Committee on the merits of the complaint

Violation of Article E read in conjunction with Article 10§3 a) and b)

550. The Committee found that there was a violation of Article E read in conjunction with Article 10§3 a) and b) of the Charter on the ground that teachers in the third category on aptitude lists suffered indirect discrimination with regard to access to specialist training in support teaching.

551. The Committee held in particular that the terms of admission to the training courses (TFA or PAS) leading to the teaching qualification, the way in which this training was organised and the lack of recognition of prior work experience disproportionately affected the capacity of supply teachers to acquire the teaching qualification, and subsequently pursue the specialist training, in support teaching guaranteed under Article 10 § 3 a) of the Charter, thus creating a situation of indirect discrimination in comparison with teachers who held the teaching qualification and did not therefore have to complete the TFA or the PAS prior to exercising their right to vocational training.

2. Information provided by the Government

552. In the report registered on 16 February 2018, the Government announces the adoption of new legislation (Legislative Decree No. 66/2017, "Good schooling: promoting the integration of pupils with disabilities") dealing with access to specialisation in support teaching in nursery and primary schools. The Government explains that access to this specialisation is still reserved for teachers with teaching qualifications so that an appropriate response can be found to the various educational needs of pupils and students with disabilities making use of highly qualified teaching staff.

553. The Government insists however on the fact that the teachers concerned by the complaint may obtain authorisation for teaching under the conditions provided for by Ministerial Decree No. 249/2010, as amended in particular by Decree No. 81 of the Ministry of Education, Universities and Research of 25 March 2013, namely if they had accrued three years' service between 1999 and 2012 in state or private schools or vocational training centres. Experience gained in teaching support services is also taken into account for this purpose.
554. The Government also emphasises that legislation was adopted in 2017 (Decree No. 259 of the Ministry of Education, Universities and Research of 9 May 2017) authorising anyone with a qualification that is useful for teaching to be entered on institute category III (*terza fascia*) and to sit examinations for access to active traineeships (TFA).

3. Assessment of the follow-up

555. The Committee would point out that it already examined the measures contained in Decree No. 81 of the Ministry of Education, Universities and Research of 25 March 2013 in its decision on the merits of this complaint.

556. It notes that access to specialisation in teaching support in nursery and primary schools is still reserved for teachers authorised to teach.

557. As to the measures taken pursuant to Decree No. 259 of the Ministry of Education, Universities and Research of 9 May 2017, the Committee notes that the information provided does not explain to what extent the new provisions actually facilitate access to authorisation and hence to specialist training in teaching support for teachers in the third category. Furthermore, no changes seem to have been made as regards the recognition of occupational achievements so as to take better account of the career paths of the teachers in question and the experience they may have acquired. The Committee asks the next report to provide any relevant information in this respect.

558. In the meantime, the Committee considers that the situation has not been brought into conformity with the Charter.

559. The Committee will next assess the situation on the basis of the information to be submitted in October 2019.

PORTUGAL

PORTUGAL

In accordance with the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, Portugal was exempted from reporting on the provisions under examination in Conclusions 2018. It was instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee had found a violation.

This is the decision concerned:

- European Roma Rights Centre v. Portugal, Complaint No. 61/2010, decision on the merits of 30 June 2011

European Roma Rights Centre v. Portugal, Complaint No. 61/2010, decision on the merits of 30 June 2011
Resolution CM/ResChS(2013)7

1. Decision of the Committee on the merits of the complaint

560. The Committee concluded that there was a violation of Article E taken in conjunction with Articles 31§1 and 16 on the following grounds:

- the continuing precarious housing conditions for a large part of the Roma community, coupled with the fact that the Government had not demonstrated that it had taken sufficient measures to ensure that Roma live in housing conditions that met minimum standards;
- the implementation of re-housing programmes by municipalities had often led to segregation of Roma, and, had on other occasions been tainted by discrimination, without finding lasting solutions to the deteriorating residential conditions in informal Roma neighbourhoods.

561. The Committee also concluded that there was a violation of Article E taken in conjunction with Article 30 on the ground that there was a lack of an "overall and coordinated approach" of housing programmes.

2. Information provided by the Government

562. The Government indicates in the information https://rm.coe.int/13th-report-from-portugal/16807b6c7e registered on 4 April 2018 that, the National Strategy for the Integration of Roma Communities (2013-2020) provides 105 measures in the areas of education, health, housing, employment and a cross-cutting pillar covering discrimination, mediation, education for citizenship, social security, promotion of Roma history and culture, and gender equality.

563. The evaluation of the ENICC for the period 2013-2015 points to a high rate of implementation.

564. In 2015, due to the ENICC, 520 actions for the integration of the Roma community took place. The overall number for the period 2013-2015 points to 668 actions. The training and awareness raising actions are leading with 70.81% and the implementation of projects/partnerships represent 6.14% of all actions.

565. Taking into consideration the data available, confronting the expectations, the rate of execution is 96.77%. The various initiatives and projects of civil society organisations and of academia allowed the sociocultural Roma mediators to improve the knowledge of the housing situation of Roma communities and to minister training/information sessions in the areas of education for health and available services.

566. The following examples of the execution of the Priorities can illustrate the progress in the activities of the ENICC.

Housing

567. In 2016, a study was led on the housing conditions of Roma and travellers communities. Following this study, the Institute for Housing and Urban Rehabilitation, I. P. (IHRU) created municipal files regarding the precarious housing and settlements occupied by Roma families, and, on the other hand, these settlements were geo-referenced using

Google Earth. Most of these degraded settlements are located in metropolitan areas and cover different types of non-classical accommodation (tents, campsites, caravans and prefabricated).

568. It should also be noted that two very significant rehousing operations have already taken place: one in Campo Maior and another in Peso da Régua. Both of these were the result of a partnership between several national, regional and local Authorities. In Campo Maior, the rehousing project resulted in the construction of the São Sebastião quarter, consisting of 53 dwellings that accommodated around 220 people, in a total investment of approximately 1.5 million euros, financed by EU funds. In Peso da Régua, the 12 families living in a camp near the Bagaúste dam were rehoused in Alagoas quarter, solving an environmental and social problem that existed on the Douro Rivers shore for over 30 years. Another 11 vacant dwellings were rehabilitated, restoring their housing conditions, with an investment of around 110,000€.

569. Approved by the Resolution of the Council of Ministers No. 48/2015, of July 15, the National Housing Strategy intends to facilitate the access of Portuguese families to housing through concrete measures.

570. The following actions are expected to take place:

- Integrate the housing needs of these communities (immigrants, ethnic minorities and / or Roma communities) into a rehousing program to be developed;
- Make social housing available for rehousing.

571. During the year 2014 two projects of great rehabilitation of social districts, Cabo Mor and Contumil were developed; in 2016, the Paranhos quarter was also rehabilitated.

572. The rehabilitation of the Cabo Mor (Gaia) included the rehabilitation of 4 buildings, with a total investment of 898,033.00€, resulted in 84 rehabilitated dwellings, of which 34 homes are inhabited by Roma households.

573. Rehabilitation work in Contumil (Oporto) involved the total reconstruction of 14 dwellings in semi-cellars, which had been built clandestinely for 30 years and had no conditions. With a total investment of 2,370,088€. This neighbourhood, consisting of 30 buildings, now has 262 homes. It is worth noting that of the households that live in that quarter, 29 are of gypsy ethnicity.

574. In 2016 it took place the rehabilitation of the Paranhos neighbourhood, in the municipality of Oporto. The housing complex consists of 4 buildings (blocks 1, 2, 3 and 4), a total of 160 dwellings, several of which inhabited by Roma households. The value of this rehabilitation exceeded 1 million€ financed by the IHRU, and was completed on July 15, 2016.

575. In 2017, in response to the Recommendation of the Parliament No. 48/2017, the Portuguese Government asked the IHRU to produce a national diagnosis of all housing needs in Portugal, mainly of the people living in dwellings that must be demolished or are not meant to be housing dwellings, where there is housing precariousness and constitute the

permanent address of the families living there. This diagnosis has been developed in cooperation with the Municipalities, many of which have been reporting Roma Communities in their territory that need resettling. At this moment this inquiry is still undergoing, and for that reason it is impossible for the IHRU to report more specific data regarding the Roma Communities.

3. Assessment of the follow-up

576. The Committee takes note of the measures adopted in the framework of the Strategy.

577. However, the Committee refers to the latest ECRI report https://rm.coe.int/13th-report-from-portugal/16807b6c7e published on 2 October 2018, "*which regretfully points out that these positive initiatives are still far from reaching all Roma communities, (…). The community in Loures still lives in a shanty-town, and there are many Roma living in precarious conditions in Lisbon; in one district, 33% of Roma families do not have a dwelling of their own, 6% have to live in a flat shared by three families and 3.5% in a flat shared by four families. In Loures, the electricity company refused to install individual meters for dwellings in the shanty-town, which violates the right to equal treatment. These precarious living conditions are one of the reasons why the vast majority of Roma children living in these areas drop out of school very early and with no qualifications, after class five at the age of only 10-12103; there are still numerous Roma children placed in segregated schools or classes and many others suffer from discrimination. Street vending, a traditional activity of Roma families, is being made increasingly difficult by stricter regulation and stronger concurrence. (…)*

ECRI regretfully observes that, according to these studies, some of the most important objectives of the SNIR have not been attained."

578. In light of this report, the Committee considers that, despite the progress made, the situation has not been brought into conformity with Articles 31§1, 16 and 30 of the Charter.

579. The Committee will assess the implementation of the envisaged measures on the occasion of the information on the follow-up given to decisions that will be submitted in October 2019.