European Social Charter | Charte sociale européenne

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

FOLLOW-UP TO DECISIONS ON THE MERITS OF COLLECTIVE COMPLAINTS

Findings 2021

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 2021. 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 adopted at the 325th session in January 2022 concerning the follow-up of decisions in complaints. The following countries are concerned:

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

BELGIUM

4th Assessment of the follow-up: 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

A. Violation of Article E read in conjunction with Article 16

In its decision, the Committee concluded that there had been several violations of Article E read in conjunction with Article 16 of the Charter on the following grounds:

(i) the failure to recognise caravans as dwellings in the Walloon Region and the lack of housing quality standards relating to health, safety and living conditions that are adapted to caravans and the sites on which they are installed in the Flemish and Brussels Regions;
(ii) the lack of sites for Travellers and the State's inadequate efforts to rectify the problem;
(iii) the failure to take account of the specific circumstances of Traveller families when drawing up and implementing planning legislation;
(iv) the situation of Traveller families with regard to eviction from sites on which they have settled illegally;

B. Violation of Article E read in conjunction with Article 30

The Committee also found that there was a lack of a co-ordinated and overall policy, in particular in housing matters, with regard to Travellers in order to prevent and combat poverty and social exclusion.

2. Information provided by the Government

A. Violation of Article E read in conjunction with Article 16

(i) Failure to recognise caravans as dwellings in the Walloon Region and the lack of housing quality standards relating to health, safety and living conditions that are adapted to caravans and the sites on which they are installed in the Flemish and Brussels Regions;

With regard to the Walloon Region, the report states that on 2 May 2019, the Parliament of Wallonia adopted a decree which includes the concept of "light housing/dwelling" in the Walloon Code of Sustainable Housing. Light housing is distinguished from housing which is a building or part of a building structurally intended for the housing of one or more households. Light housing must meet at least three of the following characteristics: dismountable, movable, of reduced volume, of light weight, with limited footprint, self-built, without storey, without foundations, which is not connected to the utilities. The report states that this multi-criteria approach encompasses various ways of living, including accommodation in a caravan.

The report adds that sanitation criteria adapted to light housing are in the process of being adopted.

As for the Brussels Region, the report reiterates the information provided previously namely that the Directorate of Subsidised Initiatives (Brussels local authorities) manages two subsidies aimed at Travellers: (i) a general subsidy for direct social assistance for migrants, homeless persons, Roma and Travellers; and (ii) a call for projects specifically aimed at Roma and Travellers, described by the report as relating to social welfare projects aimed at providing direct or indirect social assistance to the two target audiences. The examples of eligible initiatives for the (possibly temporary) reception of Travellers include: the purchase or rental

of an encampment area; encampment site development, technical facilities (water supply, toilets, waste water and sewage disposal); operating arrangements for organising reception (management, co-ordination at the level of municipal departments); pilot scheme for (temporary) reception.

With regard to the Flemish Region, the report refers again to the previous report, which indicated that the Flemish Region had developed quality standards for guidance purposes for trailers.

(ii) Number of sites for Travellers

The report reiterates the same information provided in the previous report regarding the Brussels and Flemish regions.

The report provides information on ongoing projects aimed at providing social assistance for Roma and Travellers in the Brussels Region.

Where the Flemish Region is concerned, the report states that, in 2019, there were 514 places (for 545 families) on residential sites and 74 places on transit sites. The report states that the Flemish Government grants subsidies to municipalities, provinces, public social protection centres and housing associations for the construction, extension, renovation and purchase of land for caravan sites.

With regard to the Walloon Region, the current report provides updated information. It indicates that the Parliament of Wallonia adopted a decree providing, among others, for the financing of municipalities in terms of infrastructure. A call for projects was launched by the Walloon Government in May 2019, which aims to finance municipalities that wish to develop a reception area for Travelers. It is reported that an amount of 5,000,000 € is planned over ten years for this purpose (10 infrastructures maximum for an amount of 500,000 € per project). The areas developed under this call for projects must include access to water and electricity, sanitary facilities. In addition, they must be accessible all year round. This call for projects is still ongoing. The decree also provided for the financing of the municipalities which organise a reception area. This funding (annual grant of 30,000 €) aims to cover personnel and operating costs and is intended to organise the reception and social support missions of Travelers.

(iii) Taking account of the specific circumstances of Traveller families in planning legislation

No information is provided in the current report regarding the Brussels and Walloon Regions.

The report states that in the Flemish region, the “Flemish legal code for spatial planning” contains urbanistic rules concerning caravans. In order to place a caravan with the intention of permanently living in it, it is necessary to obtain a license. Travellers can apply for the license online. If the caravan is placed on a licensed site, it is not necessary to obtain a specific license for the individual caravan. It is not possible to temporarily place a caravan on an unlicensed private site for longer than 30 days and 120 days in any given year (calculated as 4 blocks of 30 days), without obtaining a license.

(iv) Situation of Traveller families with regard to eviction from sites on which they have settled illegally

It was reported previously that at federal level, Article 439 of the Criminal Code criminalising trespassing was amended by Law of 18 October 2017 on the illegal entry and occupation of or residence in another person's property, in order to broaden the offence to cover the possible cases of occupation of and residence in another person's property (see Findings 2020).

The current report indicates that Article 442/1, which was inserted into the Criminal Code to criminalise the act of occupying or residing in uninhabited premises (§ 1), was annulled by the Constitutional Court in its decision of 12 March 2020. That provision empowered the crown prosecutor to order eviction from the property at the request of the person having a right or a deed to the property concerned, within eight days dating from the serving of the order, and to have this decision enforced.

The report states that the Constitutional Court emphasised that the eviction order of the public prosecutor constitutes an interference with the right to privacy and inviolability of the home when the property is the home of the occupants and that the prior intervention of an independent and impartial judge is an essential guarantee for the respect of the rights in question.

The report further states that Article 442/1, § 2, of the Criminal Code, which provided that the non-enforcement of the eviction order of the public prosecutor constitutes a criminal offence, was also annulled by the Constitutional Court. However, the incrimination set out in the same article of the Criminal Code for non-compliance with the eviction decision ordered by the justice of the peace in the context of civil proceedings remains.

The report indicates that Article 9 of the law of 18 October 2017 sets a waiting period of at least eight days that the judge is required to respect in relation to the execution of the eviction. The same provision also allows the judge, by reasoned decision, to set a longer period within which the eviction cannot be carried out due to exceptional and serious circumstances. When the right holder is a natural person or legal person of private law, the waiting period may not be longer than one month, and it may be extended to six months when the title or the right belongs to a legal person of public law.

The report states that a bill amending the law of 18 October 2017 relating to illegitimate entry, occupation or stay in the property of others has been tabled in the House of Representatives. This bill aims at reforming the eviction procedure which has been annulled.

Where the Flemish Region is concerned, it was reported previously that when Travellers occupy a site illegally, they can be ordered to leave that site, either by the mayor (if there is a threat to public safety or public health) or by a judge (following an application from the owner of the site). The current report indicates that a study about the living and housing situation of Travellers has been conducted. The study was finalised in June 2020 and presented to the Flemish Government on 12 June 2020. Subsequently, various relevant policy areas (housing, environment, welfare, etc.) entered into a dialogue about the research results and the recommendations.

In the Walloon region, the report states that during Covid-19, the Walloon Minister in charge of Local Authorities sent a circular to the Governors of the Provinces, requesting that the authorities suspend evictions during the lockdown period.

B. Violation of Article E read in conjunction with Article 30

The report states that the Brussels region has not provided any information on this point.

The report states that the Walloon Government has planned to adopt a new strategic plan, with an ad hoc budget, to fight poverty and reduce inequalities, which will be transversal to all Walloon competences, led by the Minister-President, in consultation with the actors in the field and after listening to people in precarious situation. The Government will analyse also the necessity of a study of the impact of different policies on poverty or wealth. The plan will be linked to the provisions adopted by the federal authority and the French Community with a view to consolidation and coordination.

The report indicates that in the Flemish Region, the Flemish Government has commissioned a study on the housing and living conditions of Travellers, with a view to producing policy recommendations (in the areas of housing, poverty, social exclusion and welfare). The study was finalised in June 2020 and presented to the Flemish Government on the 12th of June. Subsequently, various relevant policy areas (housing, environment, welfare, etc.) entered into a dialogue about the research results and the recommendations.

The report further indicates that the Flemish Government has also financed an action research project about the needs of Travellers in terms of social support, the needs of the Centres for General Welfare Work that provide support to Travellers, the system of reference addresses, and the role and responsibilities of local authorities. The goal of this project is to find better ways to bring travellers in contact with the Centres for General Welfare Work. The report states that this action research has not been finalised still, the timing has been delayed amongst others because of the Covid-19 crisis. The report also provides information on other Government-funded initiatives related to a research project focusing on the needs of Travellers and the setting up of the B-Reyn network ("Belgian Romani Early Years Network") so that Traveller families with young children can receive maximum support. Finally, a "Travellers and education" working group has been set up within the Ministry of Education to consider how the schooling of Traveller children could be improved.

3. Assessment of the follow-up

A. Violation of Article E read in conjunction with Article 16

(i) On the recognition of caravans as dwellings in the Walloon Region and the lack of housing quality standards adapted to caravans and the sites on which they are installed in the Flemish and Brussels Regions

The Committee previously noted that the question of the recognition of caravans as dwellings is a regional responsibility. The Committee also noted previously that in the Flemish and Brussels Regions, caravans are recognised as dwellings in legislation (Flemish Housing Code, Article 2, 33; Brussels Housing Code of 27 January 2012, Article 2, 28°).

The Committee notes that on 2 May 2019, the Walloon region has adopted a decree that includes the caravans in the notion of “light housing” (as separate from “housing”). The Committee notes, however, that according to the current report, sanitation criteria adapted to light housing are in the process of being adopted.

Where the Brussels Region is concerned, the Committee notes that there has been no new development since its previous assessment of the follow-up (Findings 2020). The Committee previously noted that the Brussels Housing Code stipulated that the Government must establish by decree the minimum safety, health and equipment requirements to be met specifically by itinerant homes and the sites made available for such homes by the authorities

(see Findings 2018). It further noted that although caravans were legally recognised as dwellings, the housing quality standards in force (on health, safety and living conditions) were still those which had been drawn up before caravans were recognised as dwellings and were not therefore adapted to them. If these standards were applied strictly, a large majority of caravans might be declared uninhabitable (see Findings 2018). The information provided in the report relates solely to ongoing projects (see paragraph 4 above.) The Government does not indicate whether such a decree specifying minimum safety, health and equipment requirements has been adopted. The Committee asks that the next report provide detailed information on the minimum safety, health and equipment requirements to be met by itinerant homes and the sites made available for such homes by the authorities.

The Committee noted in its previous findings that the Flemish Region had developed quality standards for trailers for guidance purposes (see Findings 2018).

In the light of the information provided, the Committee finds that progress has been made regarding the recognition of caravans as light housing/dwellings in the Walloon Region since its previous assessment on the follow-up (see Findings 2020).

However, no information has been provided concerning housing quality standards relating to health, safety and living conditions that are adapted to caravans and the sites on which they are installed in the Brussels Region and Walloon Region, the latter being in the process of being adopted.

The Committee concludes, therefore, that the situation has not been brought into conformity with the Charter as there are no housing quality standards relating to health, safety and living conditions that are adapted to caravans and the sites on which they are installed in the Brussels and Walloon Regions.

(ii) On the lack of sites for Travellers and the State's inadequate efforts to rectify the problem

The Committee notes that the information provided in respect of the Brussels Region and the Flemish Region is the same as in the previous report.

Where the Brussels Region is concerned, the Committee refers to its previous assessment on the follow-up where it took note of the information that projects are ongoing but concluded that there was nothing to indicate an increase in the number of sites available to Travellers (see Findings 2020).

The Committee also took note previously of the ongoing and finalised projects in the Flemish Region that had made it possible to create new sites for caravans. It noted that, in 2019, there were 514 places (for 545 families) on residential sites and 74 places on transit sites (Findings 2020). The Committee wishes to receive information on the total number of Traveller families needing places and the number of sites and places available in the Flemish Region, with a view to assessing whether there is an adequate number of places available on public sites to enable Traveller families to park their caravans.

The Committee reiterates the positive obligation incumbent upon the State to ensure that a sufficient number of residential sites are made available for Travellers to park their caravans (§112 of the decision on the merits). 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, 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 that sites are located in an appropriate environment offering easy access to

public services, where there are employment opportunities, health care services, schools and other social facilities (§114 of the decision on the merits).

The Committee takes note of the measures taken by the Walloon Region, in particular the call for projects aiming to finance municipalities that wish to develop a reception area for Travelers. It notes however that this call for projects is still ongoing. The Committee asks for information on its implementation and any measures taken to ensure that a sufficient number of residential sites are made available for Travellers to park their caravans.

The Committee notes that there has been no development with regard to Brussels and Flemish Regions since its previous assessment of the follow-up (Findings 2020). Given the lack of information on the number of sites available to Travellers across the Regions, the Committee reiterates its finding that the situation has not been brought into conformity with Article E read in conjunction with Article 16 of the Charter on this point.

(iii) On the failure to take account of the specific circumstances of Traveller families when drawing up and implementing planning legislation

The Committee notes that no information is provided on this point with regard to the Brussels and Walloon Regions.

The Committee takes note of the updated information regarding Flemish Region, namely that the "Flemish legal code for spatial planning" contains urbanistic rules concerning caravans. It notes that it is necessary to obtain a license in order to place a caravan with the intention of permanently living in it. It is not possible to temporarily place a caravan on an unlicensed private site for longer than 30 days and 120 days in any given year (calculated as 4 blocks of 30 days), without obtaining a license.

Given the lack of information on this point regarding the Brussels and Walloon Regions, the Committee reiterates its finding that the situation has not been brought into conformity with Article E read in conjunction with Article 16 of the Charter on this point.

(iv) On the situation of Traveller families with regard to eviction from sites on which they have settled illegally (Article E read in conjunction with Article 16 of the Charter)

The Committee notes that no information has been provided in respect of the Brussels Region regarding the situation of Traveller families with regard to eviction from sites on which they have settled illegally. The Committee noted previously that when Travellers illegally occupy a site in the Flemish Region, they can be ordered to leave that site, either by the mayor or by a judge (Findings 2020). With regards to the Walloon region, the Committee notes that during the Covid-19 crisis, the Walloon Minister in charge of Local Authorities requested that the authorities suspend evictions during the lockdown period.

At the federal level, the Committee takes note that in its judgment of 12 March 2020, the Constitutional Court annulled Article 442/1, which was inserted into the Criminal Code to criminalise the act of occupying or residing in uninhabited premises (§1). In doing so, the Constitutional Court annulled the provision that empowered the crown prosecutor to order an eviction within 8 days and to have this decision enforced.

The Committee notes that eviction orders can still be issued by the Justice of the Peace in civil proceedings. The judge is required to respect a waiting period of at least eight days in relation to the execution of the eviction. By reasoned decision, the judge may set a longer period within which the eviction cannot be carried out due to exceptional and serious circumstances, but not longer than one month in case the title or the right belongs to a natural

or legal person of private law, or six months when the title or the right belongs to a legal person of public law.

Furthermore, the Committee takes note that at the federal level, a bill amending the law of 18 October 2017 relating to illegitimate entry, occupation or stay in the property of others has been tabled in the House of Representatives with the aim of reforming the annulled eviction procedure. The Committee asks the government to provide further information on the development of any legislative changes arising as a result of this bill in its next report, and on any changes to the requirements and procedural rules regarding evictions.

Moreover, the Committee asks again for confirmation that the procedural safeguards introduced to limit the risk of eviction are respected (see Findings 2018 and 2020). It reiterates its request for information on the following aspects: the prohibition from carrying out evictions at night or during winter; access to legal remedies and access to legal aid; compensation for illegal evictions; or the obligation to consult the affected parties to find alternative solutions to eviction or rehousing solutions.

Meanwhile, the Committee considers that the situation has not been brought into conformity with Article E read in conjunction with Article 16 of the Charter on this point.

B. Violation of Article E read in conjunction with Article 30

The Committee notes the lack of information on this point with respect to the Brussels Region.

The Committee takes note of the information provided by the Walloon Government in relation to its intention to adopt a strategic plan and better consolidate with the federal authorities in their efforts to reduce inequalities. The Committee asks for further information in the next report on the progress of this strategic plan, especially with regard to housing matters for Travellers.

The Committee takes note of the steps taken by the Flemish Government and asks that the next report provide information on the results of these measures, notably where housing is concerned.

However, in the light of the information provided, the Committee notes 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.

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

4th Assessment of the follow-up: International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision on the merits of 18 March 2013, Resolution CM/ResChS(2013)16

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

A. Violation of Article 14§1

In its decision, the Committee concluded for 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 appropriate to their needs. The Committee also concluded that Article 14§1 of the Charter had been violated because of the lack of institutions giving advice, information and personal help to highly dependent adults with disabilities in the Brussels Region.

B. Violation of Article 16

The Committee further concluded that there had been a violation of Article 16 of the Charter on the ground that the shortage of care solutions and of social services adapted to the needs of persons with severe disabilities caused many families to live in precarious circumstances, undermining their cohesion, and amounted, on the part of the defendant State, to a lack of protection of the family as a unit of society.

C. Violation of Article 30

The Committee finally concluded that there had been a violation of Article 30 of the Charter on the ground that the State's failure to collect reliable data and statistics throughout the whole 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.

2. Information provided by the Government

The Government's report provides information on the measures taken by the three regions to remedy the situation of non-conformity, as follows:

A. Violation of Article 14§1

- *On the obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs.*

With regard to the Brussels Region, the current report does not provide any updated information since the previous report (see Findings 2020). It reiterates that on 31 December 2018, 350 people were on the PHARE Service list of persons with highly dependent status, of whom 268 were adults and most were without satisfactory care. The number of people cared for in centers depends on the funding available to the PHARE Service: seven highly dependent persons in 2018 and one person in 2019 had access to care in a center.

The report states that in the Flemish Region, the introduction of the system of "person following financing" ("PVF" in Dutch) has significantly improved the support sector for adults with disabilities. According to the Government, the two main objectives of the long-term policy plan are: (1) demand-driven care and support for well-informed users and (2) care guarantee for people with the greatest need.

The report indicates that the current Government has also pledged an additional financing of €270 million in the period 2020-2024, while the previous Government has provided €330 million in the past 5 years. The report further provides statistical data on the use of the system of "person following budgets" in the period 2017-2019 as follows: the number of requests on priority lists (persons waiting for a "person following budget" for adults) has increased in the last years, from 14,254 in 2017 to 16,159 in 2019. The number of "persons following budgets" awarded also increased from 1,529 in 2017 to 2,654 in 2019. It is also reported that the total number of persons with a "person following budget" (adults) on 31 December increased from 24,200 in 2017 to 25,299 in 2019.

The report indicates that in the Walloon Region, the policy of "priority cases" continues. In 2019, the budget for this policy was €5 million, and 163 people benefitted from it by being granted "designated places" or care. In 2020, the budget for this policy consisted of additional €5 million. By the time the report was drafted, 157 designated places had been created in 2020. The report states that, in addition, a budget of €4 million should be foreseen for 2021.

The report indicates that the call for project the "Autism" will create 144 places for people with autism or with a dual diagnosis, including 37 concerning children and adolescents with autism. This call for projects concerns, in addition to the creation of traditional residential services, the creation of respite places and crisis reception. Another call for projects closed in 2018 concerned a budget of €5 million for the creation, extension or renovation of infrastructure for those affected by multiple disabilities and brain injury. The latter project should eventually lead to the creation of 48 places. The report states that both abovementioned projects are said to allow for the creation of 192 new places for people with high dependency needs.

- *On the lack of institutions giving advice, information and personal help to highly dependent adults with disabilities in the Brussels Region.*

The current report reiterates the information provided previously, namely that in the Brussels Region, the PHARE multidisciplinary team, comprising a doctor, psychologists and an administrative manager, analyses all applications made to the PHARE service (for admission to or care in a centre, among others). A specialized unit within PHARE, known as the Priority situations interface, manages the list of Brussels Region residents having highly dependent status and assists these individuals in their efforts to find care solutions (see Findings 2020).

B. Violation of Article 16

- *On the shortage of care solutions and of social services adapted to the needs of persons with severe disabilities which caused many families to live in precarious circumstances, undermining their cohesion, and amounted, on the part of the defendant State, to a lack of protection of the family as a unit of society*.

The report provides no information on this point.

C. Violation of Article 30

- *On the State's failure to collect reliable data and statistics throughout the whole territory of Belgium in respect of highly dependent persons with disabilities which 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.*

With regard to the Brussels Region, the current report reiterates the information provided previously, namely that the gathering of information is based solely on those registered by the PHARE service, who apply for highly dependent status (see Findings 2020). The report states that there are currently no arrangements to gather information on a broader scale. The report adds that the new government agreement of the French Community Commission (COCOF) provides for collaboration with the Brussels Health Observatory and perspective.brussels (a regional statistics body) with a view to drawing up a precise inventory of the current offer of places and the needs to be covered in the interests of objective planning for the creation of additional places.

The report contains no information on this point with regard to measures taken in the Flemish Region.

With regard to the Walloon Region, in 2017, the Agency for Quality of Life ("AVIQ") set up a unified list allowing for prioritisation of access to accommodation for people with disabilities in emergency situations, in particular people with a mental disability, autism spectrum disorder, physical disorders (IMC., head injury, multiple disabilities or a dual diagnosis. The current report indicates that, as of 11 November 2020, there were 1,765 adults who were in active demand on this list (while there were 1,628 adults on the list on 4 December 2019). The report provides further information on four ongoing projects developed by the AVIQ in order to improve the collection of data concerning highly dependent adults with disabilities. The report adds that the creation of the unified list should, among other things, make it possible to identify typical profiles of people and their needs, to put the needs into perspective with the solutions proposed, including alternative solutions, and to determine the cost of these solutions.

3. Assessment of the follow-up

A. Violation of Article 14§1

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. For instance, the Committee takes note of the projects developed in the Walloon Region, such as "Autism", which are said to be able to create a total of 192 new places for people with high dependency needs. However, as mentioned in the national report, some of the projects have not yet been finalised and the respective places are said to become operational during 2021 depending of the progress of the infrastructure. The Committee invites Belgium to submit updated information in the next reporting cycle on the extent to which these projects that have been implemented, as well as information on any measures taken to remove the obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs.

The Committee notes in particular that the report does not provide information as to the percentage of highly dependent adults with disabilities without access to social welfare services (see Findings 2018 and Findings 2020). The Committee reiterates its request for such information. In this regard, the Committee noted previously the limited capacities of the Brussels Region to provide care solutions for all the persons who seek its assistance (Findings 2020) and the current report does not provide updated information on this point. It further notes

the large number of persons on the unified list of adults with disabilities awaiting a solution in day care and night accommodation facilities in the Walloon Region, namely 1,765 as of 11 November 2020.

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 the next report on the follow-up to its decision. Meanwhile, it considers that the situation has not been brought into conformity with Article 14§1 of the Charter.

B. Violation of Article 16

The Committee notes that there has been no new development since its previous assessment of the follow-up (Findings 2020). Consequently, the Committee reiterates its finding that the situation has not been brought into conformity with Article 16 of the Charter.

C. Violation of Article 30

The Committee takes note of the projects launched to enable the collection of reliable data and statistics on highly dependent persons with disabilities. The Committee notes in particular the projects developed by the Walloon Region in order to improve the collection of data concerning highly dependent adults with disabilities which are ongoing, and the creation of a unified list for registering applications from adults with disabilities awaiting a solution in day care and night accommodation facilities. However, the Committee notes that the information provided does not show that data and statistics thus collected have led to an overall and co-ordinated approach to ensuring highly dependent persons with disabilities and their families access to welfare and medical assistance. The Committee invites Belgium to submit further information on the collection of reliable data and statistics in all regions, and particularly the way that this leads to a co-ordinated care approach. Meanwhile, it considers that the situation has not been brought into conformity with Article 30 of the Charter.

3rd Assessment of the follow-up: 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. Decision of the Committee on the merits of the complaint

In its decision, the Committee concluded that there had been a violation of Article 17§1 of the Charter on the ground that none of the relevant domestic legal 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 States' domestic law to prohibit and penalise all forms of violence against children, i.e. acts or behaviour likely to affect the physical integrity, dignity, development or psychological well-being of children.

2. Information provided by the Government

As in the previous report, the Government refers again to Article *22bis* of the Constitution which guarantees each child the right to respect for his moral, physical, mental and sexual integrity, the prohibition of assault and battery in the Criminal Code and to Article 271 of the Civil Code which contains the notion of mutual respect between parents and children.

The Government acknowledges that Belgium has not yet laid down a full and express prohibition of all forms of corporal punishment inflicted on children.

The Government refers to the information provided in its previous report where it stated that a bill was proposed on 24 September 2019 with a view to amending the Civil Code in respect of the right of children to non-violent education and the prohibition of all forms of violence against them. However, in its response of 20 August 2021 to the comments submitted by the Federal Institute for the protection and promotion of Human Rights (FIRM/IFDH), the Government states there is currently no bill on the matter, as there is no consensus on how to deal with it. The Government states that there are, however, parliamentary initiatives that will be followed.

The report refers again to the judgment of Antwerp Appeals Court of 30 January 2019 already mentioned in the previous report, which held that corporal punishment of a child is punishable under Article 398 of the Criminal Code.

With regard to the Flemish Community, the report indicates that the Flemish Act on the legal status of minors in youth care (2004) contains an explicit prohibition of physical punishment and psychological violence against minors living in Flemish youth care institutions. The report also states that, however, the regulations concerning the care of children in the Flemish Community do not explicitly prohibit physical violence. The report adds that there are indirect references in the requirements for childcare providers in the decree on babies and young children.

The report further provides information on specific measures and initiatives taken in the Flemish Community with regard to policy on prevention of ill-treatment and support for parenting, including in the context of Covid-19 pandemic, such as campaigns, helplines for children and young people or the establishment of the Flemish Centre for Expertise on child abuse.

With regard to the French Community, the report states that there is still no explicit legislation at either federal or community level concerning the prohibition of corporal punishment of children. The report states that, however, a commitment by the French Community government to make legislative progress on this issue is found in the Community Policy Statement for the sectors under the jurisdiction of the French Community.

3. Information provided by the Federal Institute for the Protection and promotion of Human Rights (FIRM/IFDH), the Children's Rights Commission ("Kinderrechtencommissariaat", KRC. and the Delegate-General for Children's Rights ("Le Délégué général aux droits de l'enfant", DGDE).

In their comments, the FIRM/IFDH, KRC and DGDE emphasise that although Belgian law prohibits certain violent behavior with a purportedly "educational purpose", there is no explicit prohibition of corporal punishment against children. This situation enables the continued tolerance of corporal punishment that does not reach a certain threshold of severity. The FIRM/IFDH, KRC and DGDE refer to a survey conducted in March 2020 at the initiative of the Belgian section of the Defence for Children International which shows the persistence of opinions tolerant of violence.

The same comments recall that as early as 2004, in its decision on the merits of the complaint No. 21/2003, *World Organisation against Torture (OMCT) v. Belgium*, the Committee found that the Belgian State had violated Article 17 of the Charter by failing to include an explicit prohibition of corporal punishment in its legislation. The comments further recall that the UN Committee on the Rights of the Child had also repeatedly called on Belgium to explicitly prohibit corporal punishment, however light, by law, at home and in alternative care throughout the country and to promote positive, non-violent and participatory forms of child-rearing and discipline (see the latest Concluding observations on the combined fifth and sixth reports of Belgium, 1 February 2019, CRC/C/BEL/CO/5-6, §22)

With regard to the bill tabled on 24 September 2019 as mentioned by the Government, the FIRM/IFDH, KRC and DGDE note that the bill has never been included on the agenda of the Justice Committee. In respect of the judgment of the Antwerp Court of Appeal of 30 January 2019 invoked by the Government, the FIRM/IFDH, KRC and DGDE state that while the case law is commendable, the judicial approach does not seem to be a good substitute for legislative amendments and does not guarantee legal certainty.

Finally, the FIRM/IFDH, KRC and DGDE recommend to the Belgian Government to adopt an amendment to the Civil Code explicitly prohibiting all so-called "educational" violence, whether physical, emotional or psychological, and to ensure the consistency of such prohibition with the Communities legislation. They further recommend that the legislative amendments should be accompanied by awareness-raising, prevention and information campaigns aimed at the general public, as well as training and support measures on non-violent education and parenting aimed at parents, teachers and care providers.

4. Information provided by the Defence for Children International - Belgium

The Defence for Children International – Belgium ("DCI Belgium") commissioned a survey in early 2020 on the perception and use of so-called "educational violence" by the Belgian population. The results of the survey show that "punishments" are currently part of the educational means of a large majority of the parents questioned, whether they are psychological or physical in nature. The survey also shows that 74% of the population surveyed is in favour of a bill to prohibit violence against children for educational purposes.

DCI Belgium also notes that the number of complaints of domestic violence increased by 15-20% during the Covid-19 crisis and the helplines were saturated.

DCI Belgium further states that at the level of the French community, the YAPAKA programme, responsible for the prevention of abuse, takes a public stand against the adoption of a law prohibiting ordinary 'educational' violence within the family.

5. Assessment of the follow up

The Committee takes note that there has been no new development since its previous assessment of the follow-up (Findings 2020). It notes that the bill proposed on 24 September 2019 with a view to amending the Civil Code has not been adopted. The Committee notes that according to the Government there are only some parliamentary initiatives on this matter.

The Committee also takes note of the results of the survey commissioned by the DCI-Belgium, which show that punishment (psychological and physical) is still commonly used by parents in the upbringing of their children. The Committee also notes that according to DCI Belgium, the number of complaints of domestic violence increased by 15-20% during the Covid-19 crisis and the helplines were saturated.

The Committee invites the Government to submit information on the outcomes of the ongoing parliamentary initiatives or any new development with a view to change the legislation in order to set out in sufficiently precise terms a prohibition of all forms of violence against children. It also invites the Government to submit any examples of case-law by superior courts showing that legislation has been interpreted as prohibiting all forms of violence against children by parents and “other persons”, including for educational purposes.

Noting that there is still no clear and precise prohibition of corporal punishment in the Belgian domestic law, the Committee reiterates its finding that the situation has not been brought into conformity with Article 17§1 of the Charter.

2nd Assessment of the follow-up: Mental Disability Advocacy Centre (MDAC. v. Belgium, Complaint No. 109/2014, decision on the merits of 28 March 2018, Resolution CM/ResChS(2018)3

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

In its decision, the Committee concluded that there had been a violation of Article 15§1 and 17§2 of the Charter as follows:

A. Violation of Article 15§1

The Committee found a violation of Article 15§1 on the grounds that:

- the right to inclusive education of children with intellectual disabilities was not effectively guaranteed in the Flemish Community of Belgium;
- there was a lack of an effective remedy against refusal of enrolment in mainstream schooling for children with intellectual disabilities.

B. Violation of Article 17§2

The Committee found a violation of Article 17§2 on the ground that mainstream educational institutions and curricula are not accessible in practice to the children concerned.

2. Information provided by the Government

A. Violation of Article 15§1

The Government reiterates the information provided in its previous report on the follow-up to this decision (see Findings 2020).

It is reported that the Decree of 6 July 2018 made several amendments to the M-Decree that are relevant to pupils with intellectual disabilities (type 2). For example, the definition of type 2 (intellectual disabilities) was amended to include children with an IQ of above 60 but below 70. The report also states that for type 2, 4, 6, and 7 pupils, a new mechanism for supporting them in the mainstream education system was planned for 2019-2020. One measure transitory had been taken for the 2018-2019 school year, with the granting of additional assistance and operational resources to those pupils.

The report adds that since 1 September 2019, the mechanism for supporting type 2, 4, 6, and 7 pupils in the mainstream education system has been changed. For the pupils who follow an individually tailored curriculum within the mainstream education system (“pupils on a report”), the same assistance and operational resources are available as in the special education system. For the pupils who follow the normal curriculum with reasonable adjustments (“pupils on a report giving reasons”), a number of “guidance units” and operational resources have been assigned. The guidance units can be transposed into educational and/or paramedical staff.

Finally, the report states that in the coalition agreement of the new Flemish Government (2019-2024), it was decided to repeal the M-Decree and replace it with a guideline decree, comprising a final support model. It is pointed out that the Flemish Government wishes to take an approach based on pragmatism and realism: special education when needed, inclusive education when possible, with a view to generating adequate public support and teaching

uptake. The move towards inclusive education will have to be step by step and at a feasible pace. The Flemish Government states that it continues to give a full place to the special education system and will strengthen its quality where needed. It is stated that the guideline decree and the final support model would have entered into force on 1 September 2021 at the earliest.

B. Violation of Article 17§2

The statistics provided by the Flemish Government show that on 1 February 2020 there were 706 pupils with intellectual disabilities (type 2) in mainstream education (compared with 429 pupils in 2019) and 10,387 pupils in special education (compared with 10,167 in 2019).

3. Assessment of the follow-up

A. Violation of Article 15§1

The Committee notes that there has been no development since its previous assessment of the follow-up (Findings 2020).

The Committee has already taken note of the information provided by the Flemish Government which stated its intention to repeal the M-Decree and replace it with a guideline decree (see Findings 2020). This guideline decree was said to enter into force at the earliest on 1 September 2021. The Committee asks the Government for any updated information regarding the guideline decree mentioned in the report. It also asks for information on any legislative changes in this field and any measures taken to implement them.

The Committee reiterates its finding that the eligibility requirements for admission to mainstream education under the M-Decree, particularly Article 37 *undecies §§1 and 2* are based on the notion of integration rather than inclusion. The Committee holds that integration is when the child is required to adapt to the mainstream system while inclusion means the child's right to participate in ordinary schooling and the school's obligation to accept the child, taking into account the best interests of the child as well as their abilities and educational needs (decision on the merits, §66).

The Committee also noted that in the Flemish education system there are serious and multiple restrictions on the right to inclusive education excluding pupils who are "unable to follow the common curriculum" (decision on the merits, §69). The Committee also held that discrimination based on intellectual disabilities also stems from the refusal to introduce reasonable adjustments (decision on the merits, §73).

The Committee notes that the Government has provided no information regarding the lack of an effective remedy against refusal of enrolment in mainstream schooling for children with intellectual disabilities.

In light of the above and noting that no progress has been shown, the Committee reiterates its previous finding that sufficient steps have not been taken by Belgium to remedy the violations found by the Committee. Consequently, it concludes that the situation has not been brought into conformity with Article 15§1 of the Charter.

B. Violation of Article 17§2

The Committee notes that according to the statistics provided by the Flemish Government, the number of pupils with intellectual disability (type 2) in mainstream education has increased from 339 in 2018 to 429 in 2019 and to 706 in 2020. The Committee notes however that the

number of pupils with intellectual disability (type 2) in special education remains high: 10,122 in 2018, 10,167 in 2019 and 10,387 in 2020.

With regards to taking special account of children with disabilities, the Committee recalls that the inclusion of children with disabilities in mainstream schooling in which arrangements are made to cater for their special needs should be the norm and teaching in specialised schools must be the exception (decision on the merits, §104).

In light of the above, the Committee reiterates its previous finding that sufficient steps have not been taken by Belgium to remedy the violations found by the Committee. Consequently, it concludes that the situation has not been brought into conformity with Article 17§2 of the Charter.

BULGARIA

4th Assessment of the follow-up: 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

In its decision, the Committee concluded that there was a violation of Article E in conjunction with Article 16 of the Charter on the following grounds:

A. The inadequate housing of Roma families and the lack of proper amenities;

B. The lack of legal security of tenure and the non-respect of the conditions applicable to eviction of Roma families from dwellings unlawfully occupied by them.

2. Information provided by the Government

A. *As to the inadequate housing of Roma families and the lack of proper amenities*

The report indicates that information from a joint project with the World Bank would be used in order to implement the National Integration Strategy, especially in its priority on "Improving the housing conditions". The planned activities aim to analyse the housing conditions of the marginalized groups (with a focus on Roma). The completion of the mission and the presentation of the results of the field work and the analytical report is expected at the end of December 2020.

In addition to the information already submitted covering the period up to 2019, the authorities indicate that there is a need to continue the coordination efforts to provide complete and comprehensive support to the target groups of the Roma communities, including marginalized communities, while continuing to intervene simultaneously in different areas: education, employment, healthcare, improving housing conditions, overcoming negative stereotypes, etc., as well as to have an integrated approach. Under the Operational Programme 2014-2020, social housing projects were envisaged and implemented. At the beginning of 2019, about 26 of 39 municipalities had planned to build social houses. The total budget of this is BGN 33 million. The deadline for applying for this Component was 16 December 2020.

Moreover, there is a practice to solve housing and assistance for the needy and homeless people by establishing and maintaining the already established social services, which can be used by the respective target groups. The aspiration is access to social housing or housing support of good quality and that vulnerable people is entitled to get and appropriate assistance and protection, and the homeless people provided with adequate shelter.

The report further presents statistics for the period 2016 to 2019, as well as various activities within Sofia municipality supporting the provision of housing to people in need.

B. *On the lack of legal security regarding the ownership of a property and non-compliance with the conditions applicable to the eviction of Roma families from their illegally occupied houses*

The report refers to the information provided in the previous report regarding the implementation of the *Yordanova and others v. Bulgaria* rulings of the European Court of Human Rights (hereinafter the ECtHR), which concern the removal of illegal houses or the seizure of misused state and municipal properties, including by persons belonging to ethnic minorities. No new information is submitted in this respect.

3. Assessment of the follow-up

A. *As to the inadequate housing of Roma families and the lack of proper amenities*

The Committee takes note of the measures taken and it still notes that some of the projects are still in the implementation phase.

The Committee also notes that the new report refers to the fact that a study is underway to inform the new strategy, but no new information on the new strategy beyond 2020 appears in the information submitted by the authorities.

In the light of this information and its previous finding adopted in 2020, the Committee reiterates its invitation to the authorities to present their strategy for the coming years and to provide 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.

In the meantime, the Committee considers that the situation has not been brought into conformity with the Charter.

B. *On the lack of legal security of tenure and the non-respect of the conditions applicable to eviction of Roma families from sites or dwellings unlawfully occupied by them*

The Committee notes that no new information is provided by the Bulgarian authorities on the issues of legalising the housing of Roma and forced evictions, mainly as regards the implementation of ECtHR judgments.

The Committee recalls its finding adopted in 2020 on this issue and invites the authorities to provide information on the situation (in law and in practice) regarding the legalisation of dwellings of Roma families, as well as on the 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.

On the basis of the information at its disposal, and in particular all the aspects examined in its previous finding (Findings 2020), 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 applicable to eviction of Roma families.

4th Assessment of the follow-up: Mental Disability Advocacy Centre (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

In its decision, the Committee concluded that there was a violation of:

A. Article 17§2 of the Charter on the ground that children with moderate, severe or profound intellectual disabilities residing in homes for mentally disabled children (HMDC) did not have an effective right to education.

B. 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

The report indicates that several measures and plans have been adopted concerning the education of children with disabilities in addition to the ones already indicated in 2019.

A. *Concerning the violation of Article 17§2 of the Charter on the ground that children with moderate, severe or profound intellectual disabilities residing in homes for mentally disabled children (HMDC) did not have an effective right to education*

The report replies presenting how special schools are equipped in practice to meet the needs of children with intellectual disabilities, as well as the situation in practice with regard to the training of teachers and other professionals involved in the education and the learning materials. The report states that according to data of the Ministry of Education and Science in 2019 under the National Programme "Providing a Contemporary Educational Environment“, a module "Providing a Contemporary Specialized Environment in the Centres for Special Educational Support by Modernizing the Material Base for Providing Support for Personal Development of Children and Students" was implemented. The aim was to create conditions for providing a modern specialized environment in the centres for special educational support by modernising their facilities. 2,850 children and students with special educational needs receive additional support.

In 2020, under the National Programme "Development of teaching aids and methodological guides, evaluation and approval of projects of teaching aids to support training organized abroad, textbook projects and projects of learning kits", a module for the training of students with special educational needs was implemented, which enables the regional centres to support the process of inclusive education (RCSPIE) and the centres for special educational support (CSES) to apply on a project basis for:

• development and/or adaptation of teaching aids for students with special educational needs;
• methodological manuals for teachers to adapt the educational content for students with special educational needs.

By the end of September 2020, the projects of teaching aids and methodological manuals for teachers to adapt the learning content for students with special educational needs have already been developed and are to be evaluated by evaluators.

B. *Concerning the 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

At the beginning of the academic year 2020/2021 there were 42 centres for special educational support (CSES) in the country, 34 of them were state centres and 8 of them were municipal centres.

The CSES shall provide the following type of support: diagnostic, rehabilitation, correctional and therapeutic work with children and pupils for whom the assessment of the regional support centre for the inclusive education process has established that according to their educational needs they can be trained in a special educational support centre; pedagogical and psychological support; implementation of support and training programmes for the families of children and pupils; training of children and pupils of compulsory preschool and school age. The CSES also provides vocational training for acquiring a first degree of professional qualification and/or for acquiring a qualification by part of the profession, which allows for future professional realization of students, for social adaptation and socialization in society.

According to data of the Centre for Information Provision of Education (CIPE) the number of children and pupils who are trained in CSES as of February 2020 is 2,850, out of which 95 children. 755 pedagogical specialists have been appointed to provide support and to conduct training in these centres. As of February 2020, children and students with special educational needs study in kindergartens and schools and they are assisted by teams appointed in the kindergartens or schools or by specialists of the CSES. Resource support is provided in total to 22,033 children and students with special educational needs (SEN) by specialists assigned in the educational institutions: in kindergartens, a total of 5,394 children with SEN; in schools, a total of 16,639 children and students with SEN. As of February 2020, a total of 4,422 pedagogical specialists were appointed in all kindergartens and schools.

With regard to the policy of inclusive education for children and pupils with special educational needs, the report indicates that, in the context of the Covid-19 pandemic and overcoming its consequences, Bulgaria developed measures for safe distance learning in an electronic environment, as well as for equal access to school education, in connection with the training and provision of various types of support to children with special educational needs, including children from vulnerable groups, at a distance in an electronic environment. In 2020, the Ministry of Education and Science adopted the Ordinance on Inclusive Education, which provides a normative opportunity for additional training in educational subjects to be carried out also for students who during the suspended attendance classes at school due to the pandemic measures in the country have not participated in distance learning in an electronic environment. This change in the normative regulation largely applies to children from vulnerable groups.

3. Assessment of the follow-up

A. *Concerning the* violation of Article 17§2 of the Charter *on the ground that children with moderate, severe or profound intellectual disabilities residing in homes for mentally disabled children (HMDC) did not have an effective right to education*

The Committee had previously noted that homes for mentally disabled children (HMDC) were closed down in Bulgaria and they were replaced by the Centres for Disabled Children and Young People (see Findings 2019).

However, there is still no specific information or statistics on intellectually disabled children or children with severe mental disabilities and the percentage of their placement in education centres. The report indicates that they receive additional support, but the precise figures concerning children with intellectual disabilities are still missing.

The Committee notes that efforts have been made to ensure that educational institutions and curricula are accessible to everyone without discrimination and teaching has been adapted to respond to children with special needs. Schools have been better equipped and teachers and other specialists trained.

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;

- 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)]

In the meantime, the Committee considers that the situation has not been brought into conformity with the Charter.

B. *Concerning the violation of Article E in conjunction with Article 17§2 of the Charter 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*

The Committee invites the authorities to provide updated information in the next report 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.

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

4th Assessment of the follow-up: 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

In its decision, the Committee concluded that there was a violation of:

A. 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.

B. 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

The Government refers in its report to the information submitted in 2019. The implementation of these measures is gradual and the process continued in 2020.

A. *Concerning the violation of Article 13§1 of the Charter*

The report states that measures have been taken to prepare a draft National Health Strategy 2030, where the maternal and child health and the health for vulnerable groups are priorities. Measures have also been taken to update the National Programme for Improvement of Maternal and Child Health 2014-2020, which will also set measures for vulnerable groups with a view to improving access and overcoming health inequalities. The Ministry of Health also implements the "Health Care" priority to the National Roma Integration Strategy of the Republic of Bulgaria for 2012-2020.

B. *Concerning the violation of Article 11§§1, 2 and 3 in conjunction with Article E of the Charter*

In addition, during this period, the number of health mediators to help accessing health care for Roma groups has increased from 55 mediators in 2007 to 245 in 2019. The report states that the number dropped to 230 mediators in 2020, but with 295 mediators planned for 2021. Two key steps for institutionalizing the profession of health mediator were accomplished: the inclusion of the health mediator in the Health Act (amended and supplemented in 2019) and the adoption of Ordinance No. 1 on the Activity of the Health Mediator (19 August 2020).

The report further refers to the figures of the Ministry of Health prepared in 2019, which were submitted to the Committee in the previous report.

3. Assessment of the follow-up

A. *Concerning the violation of Article 13§1 of the Charter*

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).

The Committee recalls its Findings 2020 concerning this decision in which it observed that the overall health status of Roma is significantly lower than that of the rest of the population, and that there is an "overall discrimination that Roma still suffer in accessing health care", which has not been redressed during the 10 years following the ECSR's decision in ERRC v*. Bulgaria*, Complaint No. 46/2007, *op.cit.*

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

B. *Concerning the violation of Article 11§§1, 2 and 3 in conjunction with Article E of the Charter*

With regard to health education, the Committee notes that the network of health mediators has expanded until 2019, although there was a slight decrease in 2020. The Committee asks to be kept informed of the progress regarding the health mediators and the impact of their activities on improving the health situation of the Roma population.

In its Findings 2020, the Committee requested 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), especially regarding the Covid-19 situation and reported discrimination;
- 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.

The Committee reiterates its request.

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

1st Assessment of the follow-up: European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 121/2016, decision on the merits of 16 October 2018, Resolution CM/ResChs(2019)9

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

In its decision, the Committee concluded that there was a violation of Article 16 of the Charter on the grounds that family allowances are suspended or terminated the when the child stops attending school; and family allowances are terminated when the minor becomes a parent.

The Committee further concluded that there was a violation of Article E in conjunction with Article 16 of the Charter on the ground of the discrimination against Roma, and particularly towards Roma female minors.

2. Information provided by the Government

The Government refers in its report to an ad hoc working group that was established to prepare an analysis of the norms of domestic law that contravene the European Social Charter, as indicated in the appendix to the resolution of the Committee of Ministers (CM). It includes experts from the Ministry of Labour and Social Policy (MLSP), the Social Assistance Agency (SAA), the Ministry of Foreign Affairs (MFA) and the Ministry of Education and Science (MES). On 14 September 2020, the first working group meeting was held to discuss initial options for aligning provisions of our domestic law with the resolution of the CM of the Council of Europe. The second meeting of the ad hoc working Group was held on 28 September 2020. The work of the group continues.

A starting point in the analysis of the internal legislation was that the scope of the Law on Family Allowances for Children (FACA) is to support families for raising children in a family environment, while encouraging their pre-school and school education, access to health care, etc. The conditions for receiving the allowances are the same for all families. The allowances under the FACA are financed from the state budget and do not depend on the social security status of the parents/carers or the payment of social security contributions.

The report further states that there is no direct or indirect discrimination against Roma, as the conditions for granting family allowances for children are the same for all families raising children. The Social Assistance Agency does not aggregate data on the ethnicity of the supported families. The Government notes that after the entry into force of the amendments to the FACA of 28 July 2015, neither the Ministry of Labour and Social Policy nor the Social Assistance Agency (SAA) have received any complaint from citizens or the Bulgarian civil sector regarding the provisions concerning the provision of allowances in kind, including to minor parents, termination of the allowances when the child has become a parent or upon irregular visits of children to a school or a preschool group.

The report further points out that the draft law on the state budget of 2021 changes to the FACA have been proposed, which will expand the financial support of families with children. These changes are aimed at alleviating inequalities in helping families with children in the current difficult time caused by the Covid-19 crisis. It is therefore proposed to extend the universal approach of supporting families with children.

The ad hoc working group considered that the elimination of the disproportionately severe measures such as termination of family allowances in the event of non-attendance to school or for children who become parents will also affect the positive solution of the identified non-compliance with the Charter. Therefore, there are no legislative amendments proposed, as the objectives of the law, which are to ensure attendance to school among others, are achieved through the current texts. However, on the basis of all the actions and opinions

received, an analysis will be prepared, taking the form of a joint report by the Minister of Labour and Social Policy and the Minister of Foreign Affairs.

3. Assessment of the follow-up

The Committee takes note of the fact that the Government has created an ad hoc working group to assess how to adapt the legislation and bring it into conformity with the Charter.

However, this work is still underway and there are no proposals to change the FACA itself, as sanctions and termination or suspension of family allowances are still envisaged. The main reform during the period under consideration has been a proposal to modify the State budget. While the Committee welcomes this effort, it recalls that the contested measure of suspending for a period of one year and possibly terminating family allowances under certain conditions (interruption due to the lack of attendance for 3 successive months or for 6 months in one school year), even if the child returns to school, increases the economic and social vulnerability of the children concerned. Consequently, the measure in question is not proportionate to the aim pursued. As for the termination of family allowances when the minor becomes a parent, it does not pursue any of the legitimate aims established by the Charter. Minor parents cease, according to this measure, to be considered minors after becoming parents. Consequently, the termination of family allowances cannot be justified and is incompatible with the Charter.

Moreover, the Committee takes note that the Constitution and the legislation of Bulgaria prohibit discrimination. However, the Committee recalls that nearly one-in-ten births in Bulgaria was to a female minor (under 18 years old) in 2015, which is more than three times the EU average. Child marriage and motherhood affects female minors' school attendance, undermining their right to education and limiting their future employment opportunities. Furthermore, children from Roma communities drop out of school early and at very high rates - only 15% graduate from high school, compared to 87% for the population as a whole, according to 2016 figures from the National Statistical Institute. Therefore, Roma, and particularly Roma minors, are particularly affected by the measures introduced in the legislation.

The report highlights that Bulgaria does not collect any statistical data on the race or ethnicity of the families receiving the allowances. However, the Committee finds that, in ensuring access to Roma families to the family allowances, the simple statutory guarantee of equal treatment as the means of protection against any discrimination based on race and gender does not suffice. As recalled in in its decision, the Committee considers that Article E imposes an obligation to take into due consideration the relevant differences, as well as the impact the measure may have on part of the population, in this case the Roma, and among them, the female minors.

Therefore, the Committee considers that the situation has not yet been brought into conformity with the Charter.

1st Assessment of the follow-up: European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 151/2017, decision on the merits of 5 December 2018, Resolution CM/ResChS(2019)8

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

In its decision, the Committee concluded that there was a violation of Article E in conjunction with Article 11§1 of the Charter on the ground that Roma women in Bulgaria do not benefit from adequate access to health care in respect of maternity, and that this constitutes indirect discrimination.

2. *Information provided by the Government*

The Government refers in its report to the information submitted in 2019. It states that the implementation of these measures takes place gradually and this process continued in 2020.

Regarding the issue that Roma women in Bulgaria do not benefit from adequate access to healthcare in relation to maternal care and are victims of indirect discrimination, the report states that it is ungrounded. The Ministry of Health does not conduct policies and activities in the field of health care based on ethnic grounds. Under the Bulgarian legislation, health insurance in the country is compulsory. Each health insured person has the right to certain type, amount and scope of medical care, which is paid from the budget of the National Health Insurance Fund (NHIF). For pregnant women and women who have recently given birth, medical care is provided under the "Maternal Health" program in outpatient medical care. In 2019, €9,359,217 were paid from the budget of the NHIF for providing care of the pregnant woman by hospital medical care providers. The NHIF, through transfers from the Ministry of Health, pays medical expenses to insured women for the duration of pregnancy. Measures have also been taken to update the National Programme for Improvement of Maternal and Child Health 2014-2020, which will also set measures for vulnerable groups with a view to improving access and overcoming health inequalities. The Ministry of Health also implements the "Health Care" priority to the National Roma Integration Strategy of the Republic of Bulgaria for 2012-2020.

3. *Assessment of the follow-up*

The Committee takes note that the existing legislation provides for state-subsidised health insurance. Access to this health insurance is made conditional on being eligible for the right to social assistance or being registered as unemployed. Concerning pregnant women, the Constitution itself states in Article 47.2 that obstetrical care is free of charge. According to the implementing legislation, every uninsured pregnant woman has the right to one free-of-charge examination before the delivery; the delivery and associated procedures are also free of charge. However, unemployment rates amongst Roma are twice as high as for the general population in Bulgaria.

The Committee also takes note of the important challenges which are present for access and quality of health care services for Roma women, who have not undergone gynaecological screening and, as a result, many of them are suffering from gynaecological conditions. There are mobile gynaecological units, but the complaint concerned specifically the access to maternity services in public hospitals. The Committee acknowledges that, even though both uninsured and insured pregnant women have access to health services related to maternity and delivery free of charge, this access is not always adequate, which continues to have a considerable and disproportionate impact on Roma women.

The Committee already examined the follow-up to European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008 on several

occasions and concluded that the State has not fulfilled its obligations in respect of guaranteeing equal access to medical services for Roma. The Committee recalls its Findings 2020 in this respect in which it observed that the overall health status of Roma is significantly lower than that of the rest of the population, and that there is an "overall discrimination that Roma still suffer in accessing health care", which has not been redressed during the 10 years following the ECSR's decision in ERRC v. Bulgaria, Complaint No. 46/2007, *op.cit.*

The report presents the same information for the follow-up to the present decision and the Committee maintains its assessment of the situation. The report does not refer to any new elements demonstrating that health care, and in particular Roma women's access to maternity services in public hospitals, has been improved.

Therefore, the Committee considers that the situation has not been brought into conformity with the Charter.

FINLAND

4th Assessment of the follow-up: Association of Care Giving Relatives and Friends 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

In its decision, 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

The Government refers to the information provided in its previous report on the follow-up to this decision.

With regards to the number of recipients of support for informal care and of informal carers responsible for them, it is reported that, for example, in 2019, a total of 50,641 persons received support for informal care and that of those, 67% were over 65 years old. The number of informal carers responsible for them was 48,700 and 57% of these were over 65 years old.

It is further stated that the Ministry of Social Affairs and Health has launched the programme "Health and Social Services Centres of the Future" alongside the drafting of legislative reforms in the organisation of social and health services. The programme is to be implemented through regional development programmes financed from discretionary government transfers which accounted for €70 million in 2020. The Government indicates that the assessment of need for informal care and services to support informal carers will be developed on a regional basis and the financing and content of informal care development measures in 2021-2023 was to be decided in 2020.

The Government further states that the working group on reforming services for older people proposed an amendment of the Act on Support for Informal Care to extend the support for informal care to persons in service housing organised by the municipality, where 24h services are not provided ('standard service housing'). The legislative reforms are intended to enter into force in 2023.

3. Assessment of the follow-up

The Committee notes that legislative reforms are taking place with regards to the Health and Social Services programme as well as the Act on Support for Informal Care.

In its previous assessment of the follow-up (Findings 2020), the Committee invited the Government to submit updated information on the situation with respect to informal care allowances throughout the country/regions (including data on the criteria for granting the allowance and the amount of the care allowance) and data on recipients of support for informal care and of informal carers responsible for them, as well as on any legislative amendments and the impact of the above mentioned reforms on the support for informal care.

While noting the information provided by the Government, the Committee observes the lack of specific information on informal care allowances and their availability across municipalities and regions.

The Committee notes that, according to the report, non-governmental organisations have drawn attention to the unequal treatment of informal carers and have called for uniform national criteria for granting support for informal care.

The Committee recalls that the lack of uniformity in the services provided for elderly persons throughout Finland resulting from differences in the funding of such services by municipalities does not as such violate Article 23 of the Charter. However, the fact that the legislation allows practices leading to a part of the elderly population being denied access to informal care allowance or other alternative support constitutes a violation of this article (see §60 of the decision on the merits).

The Committee notes the reforms initiated by the Government. It notes that, according to the Government, the assessment of need for informal care and services to support informal carers will be developed on a regional basis. However, the Committee notes that none of the above-mentioned reforms had been implemented at the time of the report, nor is it clear what practical impact this will have to remedy the lack of support for informal carers in certain municipalities.

The Committee invites the Government to submit information on the different regional criteria for granting the allowance and the amount of care allowance available, as well as to submit information on the proportion of recipients of support for informal care. The Committee further invites the Government to submit information on the financing and content of informal care development measures in 2021-2023, which, according to the Government's submission, should have been decided in 2020.

Meanwhile, as the legislative and regulatory situation has not yet changed, the Committee reiterates its finding that the situation has not been brought into conformity with the Charter.

4th Assessment of the follow-up: Association of Care Giving Relatives and Friends v. Finland, Complaint No. 71/2011, decision on the merits of 4 December 2012, Resolution CM/ResChS(2013)13

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

In its decision, 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

The Government refers to the information provided in its previous report on the follow-up to this decision (15th report). The Government emphasises that, according to its Programme, the Act on Client Charges in Health and Social Services will be reformed to remove barriers to treatment and to increase equality in health by introducing more cost-free services and by making client charges more equitable.

The Government further states that, as already announced in its previous report, a proposal for amending the Act on Client Charges in Health and Social Services was submitted to the Finnish Parliament in September 2020. The proposal includes fees for service housing and for service housing with 24-hour assistance. In service housing with 24-hour assistance, the proposed fee is based on the client's income in a way which is similar to the fee for long term institutional care. The upper limit of the proposed fee is 85% of the client's monthly net income. However, the client must be left with at least €164 per month.

3. Assessment of the follow-up

The Committee takes note that a proposal for amending the Act on Client Charges in Health and Social Services was submitted to the Finnish Parliament in September 2020. According to the Government, the amended legislation would aim to remove barriers to treatment and to increase equality in health by introducing more cost-free services and by making client charges more equitable.

The Committee notes that the non-governmental organisations consider that the fee system for service housing is complex and expensive from the viewpoints of both administration and clients. In their view, a clear-cut fee system would improve clients' chances to obtain the kinds of services necessitated by their health and condition. The Committee asks the Government to comment on the view expressed by the non-governmental organisations.

The Committee asks the Government to provide updated information on any developments in the next report. Meanwhile, as the legislative and regulatory situation has not yet changed, the Committee reiterates its finding that the situation has not been brought into conformity with the Charter.

3rd Assessment of the follow-up: Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits of 9 September 2014, Resolution CM/ResChS(2015)8

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

In its decision, the Committee concluded that there was a violation of:

A. Article 12§1 of the Charter with regard to the minimum level of:

- sickness, maternity and rehabilitation allowances (29% of median equivalised income);
- basic unemployment allowance (29% of median equivalised income) and;
- guaranteed pension (38% of median equivalised income)

B. Article 13§1 of the Charter with regard to:

- social assistance, on the ground that even if social assistance could reach the level of 50% of median equivalised income for certain recipients under certain circumstances when various additional benefits were taken into account, it had not been demonstrated, based on the information provided, that all persons in need were granted sufficient social assistance;
- labour market subsidy, on the ground that it was insufficient (29% of median equivalised income).

2. Information provided by the Government

A. *Violation of Article 12§1 of the Charter*

- ***Sickness, parental allowance*****:** the Government states that the decision taken in the previous government term to freeze the index adjustment of benefits linked to the national pension index and the consumer price index has been rescinded and revisions are being carried out in the normal way. The minimum amount of allowances was increased to €716.50 per month in 2020.

- ***Unemployment:*** in its data, the Government lumps basic unemployment allowance together with labour market subsidy, which constitutes social assistance, coming under Article 13.

The Government states that benefits are increased for those "participating in services that promote employment" by €4.79 per weekday (covering both labour market subsidy and basic unemployment allowance) for up to 200 days. During such participation, they are also entitled to an additional sum to cover expenses (€9 per weekday). Persons with a dependant child are entitled to an additional sum of €5.28 per weekday; for two dependant children, this sum is increased to €7.76 per weekday, and for three to €10.

The Government states that the allowance was raised by €20 per month from 2020. It further states that index revisions will be carried out yearly from now on, whereas in the preceding three years no index revisions were carried out.

The Government has also abolished the activation model for unemployment security as of 1 January 2020. It states that the benefit cuts involved in the activation model would stop affecting any unemployment benefits paid after 1 January 2020.

- ***Guaranteed pension:*** the Government states that the amount was raised progressively over the last years from €775.27 at the beginning of 2018 to € 784.52 at the beginning of 2019. In the beginning of 2020, it was raised again to €834.52.

B. *Violation of Article 13§1 of the Charter*

- ***Labour market subsidy:*** the Government draws attention to the fact that the labour market subsidy is payable indefinitely.

- ***Social assistance:*** no information is provided in the Government's report.

Basic income experiment and social security reform

The Government includes information on the results of its basic income experiment that were realised in May 2020, which found that basic income recipients were more satisfied with their lives, experienced less mental strain, had a more positive perception of their economic wellbeing and slightly higher employment than those in the control group. The Government states that these results can be drawn up in the reform of the social security system. The reform is said to have been prepared by a parliamentary committee appointed in March 2020 for a term extending until 2027.

The reform will allegedly address the diversity and development of life situations as well as transitions between benefits.

Finally, according to the Government, non-governmental organisations find that basic social security in Finland is still at an insufficient level and draw attention to the effects of the Covid-19 pandemic on people's livelihoods (e.g. temporary layoffs and unemployment).

3. Assessment of the follow-up

The Committee notes from the Eurostat database that in 2020, median equivalised income was €2,124 per month and therefore the 40% threshold was €850 per month.

A. *Violation of Article 12§1 of the Charter*

- ***Sickness, parental and rehabilitation allowances:*** the report states that minimum allowance is €716.50 per month (i.e. 33.73% of median equivalised income), which is an insufficient amount in relation to Article 12§1.

- ***Basic unemployment allowance:*** the Committee notes that according to the MISSOC database, in 2020 basic unemployment allowance was €33.66 per day, or about €707 per month, which is 33% of median equivalised income. It may be increased for persons participating in services to promote employment by up to €4.79 per weekday for a single person in the unemployment benefit (labour market subsidy and basic unemployment allowance). In such cases, combined/increased benefit can reach €38.45 per day or about €807 per month, which is still under 40% of the median equivalised income.

- ***Guaranteed pension:*** the Committee notes that according to the report, the total amount was raised to €834.52 (i.e. 39.3% of median equivalised income) in 2020, which is still insufficient to fulfil the requirement of Article 12§1.

The Committee notes from the relevant database (Eurostat, MISSOC) that the minimum amount of social security benefits mentioned above are lower than 40% of median equivalised income and therefore insufficient to meet the requirements of Article 12§1 of the Charter. It

concludes that, for these benefits, the situation has not been brought into conformity with the Charter.

B. *Violation of Article 13§1 of the Charter*

- ***Social assistance benefits:*** the Committee notes that the basic social assistance for a single person amounts to €502.21 per month in 2020, which represents 23.6% of median equivalised income. The Committee had acknowledged that in some cases the level could reach 50% when other potential additional benefits were factored in. However, it had pointed out that some allowances were discretionary in nature and there was no precise information on the actual amounts paid to persons in need. In its previous assessment on the follow-up, the Committee noted that the information provided in the Government's report did not supply any more detail, although it did list various basic costs which may be covered (Findings 2020). No further information is provided in the current report.

Consequently, although basic benefit may be supplemented by various other types of support, the Committee cannot ascertain that the situation has been brought into conformity in this respect because it has not been provided with sufficient information.

- ***Labour market subsidy:*** the Committee notes from the MISSOC database that in 2020 the labour market subsidy amounts to €33.66 per day and is paid for five days per week, meaning that it amounts to about €673 per month, or 31.7% of median equivalised income. The Committee notes that the level of labour market subsidy has even decreased (from €34.20 per day in 2019 to €33.66 in 2020) and is insufficient to meet the requirements of Article 13§1 of the Charter.

As to the benefits covered by Article 13§1, the Committee notes that the labour market subsidy is still inadequate and it has even decreased in 2020 as compared to 2019. As regards social assistance, the Committee has not been provided with information to ascertain that the social assistance benefits paid to persons in need are sufficient. Consequently, the Committee considers that the situation has not been brought into conformity with Article 13§1 of the Charter.

The Committee repeats its request for the national authorities to provide information in future reports on measures taken to follow up on the decision on the merits, giving examples supported by figures of the various categories of recipients, showing that the main benefits at issue, when combined with other supplementary benefits, reach a sufficient level to meet the requirements of Article 12§1 and Article 13§1 of the Charter respectively.

In view of the above, the Committee considers that the situation has not been brought into conformity with Articles 12§1 and 13§1 of the Charter.

3rd Assessment of the follow-up: 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

In its decision, 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

The Government refers to the information provided in its previous report on the follow-up to this decision (the 15th report).

3. Assessment of the follow-up

The Committee notes that the Central Organisation of Finnish Trade Unions (SAK), the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) and the Finnish Confederation of Professionals (STTK) as well as the Federation of Finnish Enterprises (FFE) refer to their views expressed in the context of the previous report on the follow-up to this decision (the 15th report).

As regards the views expressed by the Federation of Finnish Enterprises that reinstatement is not included as a specific and indispensable remedy under Article 24 of the Charter, the Committee refers to its previous assessment of the follow-up recalling its decision on the merits where it held that "while Article 24 of the Charter does not explicitly refer to reinstatement, it refers to compensation or *other appropriate relief*. The Committee considered that *other appropriate relief* should include reinstatement as one of the remedies available to national courts or tribunals (see Conclusions 2003, Article 24, Bulgaria). The possibility of ordering reinstatement recognises the importance of placing the worker back into an employment situation no less favourable than he/she previously enjoyed. Whether reinstatement is appropriate in a particular case is a matter for the domestic courts to decide" (see §55 of the decision on the merits).

The Committee notes that there has been no new development since its previous assessment of the follow-up (Findings 2020). Consequently, the Committee reiterates its finding that the situation has not been brought into conformity with the Charter.

3rd Assessment of the follow-up: 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

In its decision, 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

The Government refers to the information provided in its previous report on the follow-up to this decision (the 15th report).

3. Assessment of the follow-up

The Committee notes from the report that non-governmental organisations held that the freezing of index adjustments to the minimum rates of benefits implemented during 2017-2019 has contributed to the insufficient level of basic social security.

The Committee notes that there has been no new development since its previous assessment of the follow-up (Findings 2020). It refers to its previous assessment where it considered that it had not been demonstrated that action had been taken to bring the labour market subsidy to an adequate level whether alone or in combination with the housing allowance, nor had it been shown with any degree of precision that the effect of possible supplementary social assistance benefits, such as housing benefit and income support, was sufficient to decisively improve the situation for all the recipients of labour market subsidy concerned.

Consequently, the Committee reiterates its finding that the situation has not been brought into conformity with the Charter.

FRANCE

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

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

In its decision, the Committee concluded that there was a violation of Articles 15§1 and 17§1, read alone or in conjunction with Article E of the Charter, on the following grounds:

- the proportion of children with autism being educated in either mainstream or specialist schools was extremely low and much lower than in the case of other children, whether disabled or not;
- there was a chronic shortage of care and support facilities for autistic adults.

2. Information provided by the Government

On the proportion of children with autism being educated in either mainstream or specialist schools

In its report, the Government states that in September 2019, 54,500 children with autism spectrum disorders (ASD) were enrolled in school:

- 39,100 (about 72%) were in the mainstream system (26,000 in nursery or primary school and 13,100 in secondary school);
- 13,000 (about 24%) were taught by medico-social services and establishments (ESMSs) in a medico-social establishment teaching unit (UE) or an external teaching unit in a school (UEE);
- 2,400 (about 4%) were in health establishments.

The Government adds that in September 2019, 25 ASD teaching units were opened in nursery schools and 20 in primary schools and in September 2020, 40 were opened in nursery schools and 31 in primary schools.

Under Law No. 2019-791 on a school of trust (whose content and aims were outlined in the 3rd follow-up assessment), a new form of inclusive schooling has been adopted, midway between school in a mainstream class and a special class, the so-called “self-regulating system”. Children still attend school in their mainstream classes with the usual classmates but are also offered an individual programme of “self-regulating” teaching in a room in the school set aside specifically for them.

The National Inclusive School Monitoring Committee, which met in November 2020, set new objectives for 2020-2021. In addition to setting up training for teaching assistants, it emphasised the importance of establishing inclusive local assistance units (PIALs), which now cover 80% of the country, with a target of 100% in 2021. Lastly, the introduction of an inclusive school career booklet (LPI) will make it possible to guarantee to families that educational adjustments and arrangements will be made for their child. LPIs are currently in a testing phase but will be available to everyone in September 2021 and accessible online in September 2022.

The Government recalls that if enrolment in mainstream education is refused, ordinary law appeals are available (mediation, applications for reconsideration or to a higher administrative authority, and litigation in court).

With regard to specialist institutions caring for children and adolescents with ASD, the Government states that the process of outsourcing teaching units from the medico-social sector to mainstream school is continuing. In particular, as part of the Autism Strategy, the creation of 45 new autism teaching units in nursery schools (UEEAs) was endorsed at the National Disability Conference on 11 February 2020.

The budgetary data from the Autism Plan concerning schooling were provided for the 3rd follow-up assessment. One change should be noted, namely that the budget allocated for UEEAs (which were increased from 45 to 90 following the National Disability Conference, see above) rose from €3.82 million to €8 million.

On the number of care and support facilities for autistic adults

The Government reiterates what it mentioned in its report for the 3rd follow-up assessment, namely that there are not enough statistical sources which provide data on medico-social establishments and services supporting people with ASD to provide a full picture of the care and support of autistic persons. Consequently, the French authorities have made provision to set up other information collection systems, which are currently being developed (see *Action européenne des handicapés (AEH) v. France*, Complaint No. 81/2012, 3rd follow-up assessment).

3. Assessment of the follow-up

In its 2nd and 3rd follow-up assessments, the Committee took note of the 4th Autism Plan (2018-2022), which has a budget of €344 million to improve autism research, detection and care (compared to €205 million for the 2013-2017 Autism Plan), and of the efforts made in terms of the budget allocated for the education of children with autism.

On the proportion of children with autism being educated in either mainstream or specialist schools

The Committee notes that the French authorities' efforts to provide education for children with autism continues as part of the 2018-2022 Autism Plan. It notes in particular that there has been an increase in the number of children with autism enrolled in mainstream schools (from 36,000 in September 2018, see 3rd follow-up assessment) and in the number of ASD teaching units opened in nursery and primary schools. It also notes that systems to promote the integration of children with autism at school and their individual supervision and support have been devised and set up (the "self-regulating" system and the LPI and PIAL).

The Committee further notes that the Government has provided detailed information on the number of children with autism enrolled in school in September 2019 and how these are divided between mainstream and specialist schools. However, the figures provided do not state what proportion of the total number of children with autism are enrolled at school. Therefore, the Committee asks for information in the next report on:

- the proportion of children with autism being educated in either mainstream or specialist schools;
- the number of children with autism exempt from compulsory schooling and who receive no education;
- the number of appeals against decisions to refuse to enrol children with autism and the success rate of these appeals.

On the number of care and support facilities for autistic adults

The Committee notes that current statistics provide only limited information about the number of care and support facilities for autistic adults and therefore the French authorities are in the process of setting up other information collection systems. The Committee asks for updated information in the next report on the number of care and support facilities for autistic adults (and the number of places on offer) and the needs in this area.

The Committee considers that the situation has not yet been brought into conformity with Articles 15§1 and 17§1 of the Charter, read alone or in conjunction with Article E, with regard either to the proportion of children with autism being educated in school or to the number of care and support facilities for autistic adults.

4th Assessment of the follow-up: European Council of Police Trade Unions (CESP) v. France, Complaint No. 38/2006, decision on the merits of 3 December 2007, Resolution CM/ResChS(2008)6

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

In its decision, the Committee held that the French system of compensation for overtime worked by active members of the national police force did not comply with Article 4§2 of the Charter.

The flat-rate compensation scheme for extra services for all active personnel of the national police force is such as to deprive all active personnel of the actual increase required by the said Article. In particular, the Committee concluded that the functions of officers and commanders are not in all cases equivalent to design and management functions.

2. Information provided by the Government

The report indicates that the situation regarding the increased compensation for overtime worked by active personnel and the working time of officers for whom, henceforth, all additional services are compensated (call-back, on-call duty, call-back for on-call duty, permanent presence, overtime, postponed rest) has been brought into conformity.

The report highlights that there have been far-reaching reforms in the organisation of working time in the national police force since the Order of 5 September 2019 on the organisation of working time (APORTT, NOR : INTC1921011A) in the national police force, applicable from 1 January 2020.

The aim of this order is:

- to bring the working time regulations of the national police force into line with the standards of Directive 2003/88/EC (respecting, monitoring, and providing for minimum rest time and limiting maximum working time).

In this respect, a reorganisation of the work cycles has been operated by replacing the "4/2 toggle" cycle, which does not comply with daily rest periods, with new cycles such as the "strong shift", the introduction of which has been stopped to allow experimentation, currently under way, of binary cycles in 11:08 and 12:08 with a view to their generalisation for public road units;

- to update and bring the regulations on working time in the national police force into line with each other.

The report stresses that in the context of the application of the order of 5 September 2019, police officers are subject to a specific instruction according to which personnel of the command corps who are not covered by Article 10 of Decree 2000-815 will benefit from new provisions:

- compensation for call-backs (abolished since April 2008);
- the recognition of overtime and the establishment of a special restitution mechanism, via a specific instruction on the organisation of working arrangements for officers outside Article 10.

Finally, regarding the compensation for overtime worked and overtime bonuses, the Government indicates that with the aim to preserving the operational capacity of the services,

the Ministry is committed to a gradual reduction in the stock of overtime according to the funds available. This reduction is based on three levers: 1. clearance of the debt; 2. compensation for part of the overtime flow inherent in police operational activity to avoid the generation of new overtime; 3. control of the generation of overtime by implementing the order of 5 September 2019 on the organisation of working time in national police services (APORTT). In a previous report (for Findings 2020), the Government informed that from December 2019, a budget of €50 million has been released to allow a first wave of compensation for overtime and overtime bonuses.

3. Assessment of the follow-up

The Committee takes note of the information provided by the Government.

- *On the structural dysfunctions at the origin of overtime accumulation*

The Committee recalls that Article 4§2 is intrinsically linked to Article 2§1 of the Charter, which guarantees the right to reasonable daily and weekly working hours. Overtime means hours worked in addition to normal working hours (Conclusions I (1969), Statement of interpretation on Article 4§2).

The Committee notes that in their report, the Government refers to far-reaching reforms in the organisation of working time in the national police, in particular by the Order of 5 September 2019 (APORTT, NOR: INTC1921011A) applicable as of 1 January 2020.

In its previous finding the Committee noted that the Government is taking steps to acknowledge the impact of work organization on the generation of overtime (Findings 2020). In this respect, experiments in the course of the work cycles (replacement of the "4/2 toggle" cycle by the "strong shift" and then by binary cycles) are interesting avenues for remedying the structural dysfunctions that are at the root of the heavy recourse to overtime. However, the Committee considered that it was not in a position to assess the situation in this respect, since the steps taken by the Government are only at the experimental stage.

In order to be able to assess the situation, the Committee requested that the Government indicate in their next report the various approaches envisaged and/or adopted to resolve this problem and the results obtained. As the requested information was not contained in the 2021 report, the Committee asks that it be included in the next report.

Pending receipt of the requested information, the Committee reserves its position and cannot conclude that the situation has been brought into conformity with Article 4§2 on this point.

- *On the situation of officers in the command corps*

The Committee recalls that the principle enshrined in Article 4§2 of the Charter is that work performed in addition to normal working hours requires an increased effort on the part of the worker, who must therefore be remunerated at a higher rate than the normal rate of pay (Conclusions XIV-2 (1998), Statement of interpretation on Article 4§2).

In its previous finding the Committee noted that several orders and decrees have strengthened the status of police officers, who have been granted managerial status, both in terms of the responsibilities they exercise, their position within the services and the definition of their pay and compensation scale (Findings 2020). Nevertheless, the Committee considered that the organic status and responsibilities entrusted to officers in the command corps continue to differ from the status and responsibilities of officers constituting the design and management corps of the French police. In this sense, the Committee considered that the officers of the national

police command corps do not, as a whole, fall within the exceptions provided for in Article 4§2 of the Charter.

The Committee also considered that the legal changes that resulted in the abolition of the command bonus and its replacement by responsibility and performance allowances should not change its position that these different emoluments are not intended to compensate for overtime.

In its previous finding the Committee noted that in its last report the Government indicated that they have brought themselves into line with the increased compensation for overtime worked by active personnel and the working time of officers (Findings 2020). However, the Committee requested that the Government provide more information about the content of the provisions of the specific instruction issued in the framework of the Order of 5 September 2019.

As the requested information was not contained in the 2021 report, the Committee reiterates its request. Pending receipt of this information, the Committee considers that it is not in a position to assess the situation in this respect and cannot conclude that the situation has been brought into conformity with Article 4§2 on this point.

- *On compensation for overtime worked by active personnel*

In its previous finding the Committee considered that the situation has been brought into conformity on this point (Findings 2020).

4th Assessment of the follow-up: European Council of Police Trade Unions (CESP) v. France, Complaint No. 57/2009, decision on the merits of 1 December 2010, Resolution CM/ResChS(2013)9

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

In its decision, the Committee held that the French system of compensation for overtime worked by active members of the national police force did not comply with Article 4§2 of the Charter.

In particular, the Committee concluded that police officers are treated differently depending on whether they belong to the command corps or the "*corps d'encadrement et d'application*". In any case, the functions of officers and commanders are not assimilated to functions of conception and direction.

2. Information provided by the Government

The report indicates that the situation regarding the increased compensation for overtime worked by active personnel and the working time of officers for whom, henceforth, all additional services are compensated (call-back, on-call duty, call-back for on-call duty, permanent presence, overtime, postponed rest) has been brought into conformity.

The report highlights that there have been far-reaching reforms in the organisation of working time in the national police force since the Order of 5 September 2019 on the organisation of working time (APORTT, NOR : INTC1921011A) in the national police force, applicable from 1 January 2020.

The aim of this order is:

- to bring the working time regulations of the national police force into line with the standards of Directive 2003/88/EC (respecting, monitoring and providing for minimum rest time and limiting maximum working time).

In this respect, a reorganisation of the work cycles has been operated by replacing the "4/2 toggle" cycle, which does not comply with daily rest periods, with new cycles such as the "strong shift", the introduction of which has been stopped to allow experimentation, currently under way, of binary cycles in 11:08 and 12:08 with a view to their generalisation for public road units.

- to update and bring the regulations on working time in the national police force into line with each other.

The report stresses that in the context of the application of the order of 5 September 2019, police officers are subject to a specific instruction according to which personnel of the command corps who are not covered by Article 10 of Decree No. 2000-815 will benefit from new provisions:

- compensation for call-backs (abolished since April 2008);
- the recognition of overtime and the establishment of a special restitution mechanism, via a specific instruction on the organisation of working arrangements for officers outside Article 10.

Finally, regarding the compensation for overtime worked and overtime bonuses, the Government indicates that with the aim to preserving the operational capacity of the services,

the Ministry is committed to a gradual reduction in the stock of overtime according to the funds available. This reduction is based on three levers: 1. clearance of the debt; 2. compensation for part of the overtime flow inherent in police operational activity to avoid the generation of new overtime; 3. control of the generation of overtime by implementing the order of 5 September 2019 on the organisation of working time in national police services (APORTT). In a previous report (for Findings 2020), the Government informed that from December 2019, a budget of €50 million has been released to allow a first wave of compensation for overtime and overtime bonuses.

3. Assessment of the follow-up

The Committee takes note of the information provided by the Government.

- *On the structural dysfunctions at the origin of overtime accumulation*

The Committee recalls that Article 4§2 is intrinsically linked to Article 2§1, which guarantees the right to reasonable daily and weekly working hours. Overtime means hours worked in addition to normal working hours (Conclusions I (1969), Statement of interpretation on Article 4§2).

The Committee notes that in their report, the Government refers to far-reaching reforms in the organization of working time in the national police, in particular by the Order of 5 September 2019 (APORTT, NOR: INTC1921011A) applicable as of 1 January 2020.

In its previous finding the Committee noted that the Government is taking steps to acknowledge the impact of work organization on the generation of overtime (Findings 2020). In this respect, experiments in the course of the work cycles (replacement of the "4/2 toggle" cycle by the "strong shift" and then by binary cycles) are interesting avenues for remedying the structural dysfunctions that are at the root of the heavy recourse to overtime. However, the Committee considered that it was not in a position to assess the situation in this respect, since the steps taken by the Government are only at the experimental stage.

In order to be able to assess the situation, the Committee requested that the Government indicate in their next report the various approaches envisaged and/or adopted to resolve this problem and the results obtained. As the requested information was not contained in the 2021 report, the Committee asks that it be included in the next report.

Pending receipt of the requested information, the Committee reserves its position and cannot conclude that the situation has been brought into conformity with Article 4§2 on this point.

- *On the situation of officers in the command corps*

The Committee recalls that the principle enshrined in Article 4§2 is that work performed in addition to normal working hours requires an increased effort on the part of the worker, who must therefore be remunerated at a higher rate than the normal rate of pay (Conclusions XIV-2 (1998), Statement of interpretation on Article 4§2).

In its previous finding the Committee noted that several orders and decrees have strengthened the status of police officers, who have been granted managerial status, both in terms of the responsibilities they exercise, their position within the services and the definition of their pay and compensation scale (Findings 2020). Nevertheless, the Committee considered that the organic status and responsibilities entrusted to officers in the command corps continue to differ from the status and responsibilities of officers constituting the design and management corps of the French police. In this sense, the Committee considered that the officers of the national

police command corps do not, as a whole, fall within the exceptions provided for in Article 4§2 of the Charter.

The Committee also considered that the legal changes that resulted in the abolition of the command bonus and its replacement by responsibility and performance allowances should not change its position that these different emoluments are not intended to compensate for overtime.

In its previous finding the Committee noted that in its last report the Government indicated that they have brought themselves into line with the increased compensation for overtime worked by active personnel and the working time of officers (Findings 2020). However, the Committee requested that the Government provide more information about the content of the provisions of the specific instruction issued in the framework of the Order of 5 September 2019.

As the requested information was not contained in the 2021 report, the Committee reiterates its request. Pending receipt of this information, the Committee considers that it is not in a position to assess the situation in this respect and cannot conclude that the situation has been brought into conformity with Article 4§2 on this point.

- *On compensation for overtime worked by active personnel*

In its previous finding the Committee considered that the situation has been brought into conformity on this point (Findings 2020).

4th Assessment of the follow-up: *Médecins du Monde – International* v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012, Resolution CM/ResChS(2013)6

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

In its decision, the Committee found violations of the following articles of the Charter:

- Article E read in conjunction with Article 31§1, on the grounds of excessively limited access for migrant Roma lawfully residing or legally working in France to adequate housing, and of substandard housing conditions;
- Article E read in conjunction with Article 31§2, on the grounds of the procedure for evicting migrant Roma from the sites where they are settled and the inadequacy of measures to provide emergency accommodation and reduce homelessness among migrant Roma;
- Article E read in conjunction with Article 16, on the grounds of inadequate measures to provide housing to families of migrant Roma lawfully residing or legally working in France;
- Article E read in conjunction with Article 30, on the grounds of inadequate measures to ensure migrant Roma lawfully residing or legally working in France enjoy effective access to housing;
- Article E read in conjunction with Article 19§8, on the grounds of shortcomings in the procedure for expelling migrant Roma;
- Article E read in conjunction with Article 17§2, on the grounds of the French education system's lack of accessibility to migrant Roma children;
- Article E read in conjunction with Article 11§1, on the grounds of difficulties in accessing health care for migrant Roma, whether in a regular or irregular situation;
- Article E read in conjunction with Article 11§2, on the grounds of the lack of information, awareness-raising initiatives, health counselling and screening for migrant Roma;
- Article E read in conjunction with Article 11§3, on the grounds of a lack of disease and accident prevention measures for migrant Roma;
- Article E read in conjunction with Article 13§1, on the grounds of a lack of medical assistance for migrant Roma lawfully residing or legally working in France for more than three months;
- Article 13§4, on the grounds of a lack of medical assistance for migrant Roma lawfully residing or legally working in France for less than three months.

In its first assessment of the follow-up (Findings 2015), the Committee found that the situation which had given rise to a violation of Article E read in conjunction with Article 17§2 had been brought into conformity.

In its second assessment of the follow-up (Findings 2018), the Committee found that the situations which had given rise to violations of Articles 13§1 and 19§8 read in conjunction with Article E, and of Article 13§4 had been brought into conformity.

In its third assessment of the follow-up (Findings 2020), the Committee found that the situations which had given rise to violations of Article E read in conjunction with Articles 16, 30, 31§1 and 31§2 had been brought into conformity.

2. Information provided by the Government

On the difficulties in accessing health care for migrant Roma, whether in a regular or irregular situation (Article E read in conjunction with Article 11§1); on the lack of information,

awareness-raising initiatives, health counselling and screening for migrant Roma (Article E read in conjunction with Article 11§2); on the lack of disease and accident prevention measures for migrant Roma (Article E read in conjunction with Article 11§3)

The Committee notes that the Government report does not contain any information on violations of Article E read in conjunction with Articles 11§1, 11§2 and 11§3 of the Charter.

3. Assessment of the follow-up

On the difficulties in accessing health care for migrant Roma, whether in a regular or irregular situation (Article E read in conjunction with Article 11§1); on the lack of information, awareness-raising initiatives, health counselling and screening for migrant Roma (Article E read in conjunction with Article 11§2); on the lack of disease and accident prevention measures for migrant Roma (Article E read in conjunction with Article 11§3)

The Committee recalls that in its third assessment of the follow-up (Findings 2020), it noted the failure to provide additional information on the implementation of relevant aspects of the national health strategy at both national and regional level and, in particular, on the results of the health mediation programme for those having difficulties accessing the health system (including Travellers).

The Committee requested information on these points and on (among other things) the measures taken by the Regional Health Agencies (including regional programmes for access to care and prevention, PRAPS) and on the section on health in departments' traveller reception and housing plans. The Committee asks for this information to be provided in the next report on the follow-up to this decision.

In the meantime, the Committee considers that the situation has not been brought into conformity with Article E read in conjunction with Articles 11§1, 11§2 and 11§3 of the Charter.

4th Assessment of the follow-up: European Council of Police Trade Unions (CESP) v. France, Complaint No. 68/2011, decision on the merits of 23 October 2012, Resolution CM/ResChS(2013)10

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

In its decision, the Committee held that the French system of compensation for overtime worked by active members of the national police force did not comply with Article 4§2 of the Revised Charter.

The flat-rate compensation scheme for extra services for all active personnel of the national police force is such as to deprive all active personnel of the actual increase required by the said Article. In particular, the Committee concluded that the functions of officers and commanders are not in all cases equivalent to design and management functions.

2. Information provided by the Government

The report indicates that the situation regarding the increased compensation for overtime worked by active personnel and the working time of officers for whom, henceforth, all additional services are compensated (call-back, on-call duty, call-back for on-call duty, permanent presence, overtime, postponed rest) has been brought into conformity.

The report highlights that there have been far-reaching reforms in the organisation of working time in the national police force since the Order of 5 September 2019 on the organisation of working time (APORTT, NOR : INTC1921011A) in he national police force, applicable from 1 January 2020.

The aim of this order is:

- to bring the working time regulations of the national police force into line with the standards of Directive 2003/88/EC (respecting, monitoring and providing for minimum rest time and limiting maximum working time).

In this respect, a reorganisation of the work cycles has been operated by replacing the "4/2 toggle" cycle, which does not comply with daily rest periods, with new cycles such as the "strong shift", the introduction of which has been stopped to allow experimentation, currently under way, of binary cycles in 11:08 and 12:08 with a view to their generalisation for public road units;

- to update and bring the regulations on working time in the national police force into line with each other.

The report stresses that in the context of the application of the order of 5 September 2019, police officers are subject to a specific instruction according to which personnel of the command corps who are not covered by Article 10 of Decree No. 2000-815 will benefit from new provisions:

- compensation for call-backs (abolished since April 2008);
- the recognition of overtime and the establishment of a special restitution mechanism, via a specific instruction on the organisation of working arrangements for officers outside Article 10.

Finally, regarding the compensation for overtime worked and overtime bonuses, the Government indicates that with the aim to preserving the operational capacity of the services,

the Ministry is committed to a gradual reduction in the stock of overtime according to the funds available. This reduction is based on three levers: 1. clearance of the debt; 2. compensation for part of the overtime flow inherent in police operational activity to avoid the generation of new overtime; 3. control of the generation of overtime by implementing the order of 5 September 2019 on the organisation of working time in national police services (APORTT). In a previous report (for Findings 2020), the Government informed that from December 2019, a budget of €50 million has been released to allow a first wave of compensation for overtime and overtime bonuses.

3. Assessment of the follow-up

The Committee takes note of the information provided by the Government.

- *On the structural dysfunctions at the origin of overtime accumulation*

The Committee recalls that Article 4§2 is intrinsically linked to Article 2§1 of the Charter, which guarantees the right to reasonable daily and weekly working hours. Overtime means hours worked in addition to normal working hours (Conclusions I (1969), Statement of interpretation on Article 4§2).

The Committee notes that in their report, the Government refers to far-reaching reforms in the organisation of working time in the national police, in particular by the Order of 5 September 2019 (APORTT, NOR: INTC1921011A) applicable as of 1 January 2020.

In its previous finding the Committee noted that the Government is taking steps to acknowledge the impact of work organization on the generation of overtime (Findings 2020). In this respect, experiments in the course of the work cycles (replacement of the "4/2 toggle" cycle by the "strong shift" and then by binary cycles) are interesting avenues for remedying the structural dysfunctions that are at the root of the heavy recourse to overtime. However, the Committee considered that it was not in a position to assess the situation in this respect, since the steps taken by the Government are only at the experimental stage.

In order to be able to assess the situation, the Committee requested that the Government indicate in their next report the various approaches envisaged and/or adopted to resolve this problem and the results obtained. As the requested information was not contained in the 2021 report, the Committee asks that it be included in the next report.

Pending receipt of the requested information, the Committee reserves its position and cannot conclude that the situation has been brought into conformity with Article 4§2 on this point.

- *On the situation of officers in the command corps*

The Committee recalls that the principle enshrined in Article 4§2 of the Charter is that work performed in addition to normal working hours requires an increased effort on the part of the worker, who must therefore be remunerated at a higher rate than the normal rate of pay (Conclusions XIV-2 (1998), Statement of interpretation on Article 4§2).

In its previous finding the Committee noted that several orders and decrees have strengthened the status of police officers, who have been granted managerial status, both in terms of the responsibilities they exercise, their position within the services and the definition of their pay and compensation scale (Findings 2020). Nevertheless, the Committee considered that the organic status and responsibilities entrusted to officers in the command corps continue to differ from the status and responsibilities of officers constituting the design and management corps of the French police. In this sense, the Committee considered that the officers of the national

police command corps do not, as a whole, fall within the exceptions provided for in Article 4§2 of the Charter.

The Committee also considered that the legal changes that resulted in the abolition of the command bonus and its replacement by responsibility and performance allowances should not change its position that these different emoluments are not intended to compensate for overtime.

In its previous finding the Committee noted that in its last report the Government indicated that they have brought themselves into line with the increased compensation for overtime worked by active personnel and the working time of officers (Findings 2020). However, the Committee requested that the Government provide more information about the content of the provisions of the specific instruction issued in the framework of the Order of 5 September 2019.

As the requested information was not contained in the 2021 report, the Committee reiterates its request. Pending receipt of this information, the Committee considers that it is not in a position to assess the situation in this respect and cannot conclude that the situation has been brought into conformity with Article 4§2 on this point.

- *On compensation for overtime worked by active personnel*

In its previous finding the Committee considered that the situation has been brought into conformity on this point (Findings 2020).

4th Assessment of the follow-up: *Action européenne des handicapés* (AEH) v. France, Complaint No. 81/2012, decision on the merits of 11 September 2013, Resolution CM/ResChS(2014)2

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

In its decision, the Committee found a violation of Article 15§1 of the Charter in respect of:

- the right of children and adolescents with autism to be educated primarily in mainstream schools;
- the right of young persons with autism to vocational training;
- the work done in specialised institutions caring for children and adolescents with autism, which is not predominantly educational in nature.

The Committee also concluded that there was a violation of Article E of the Charter read in conjunction with Article 15§1 on the grounds of:

- families having no other choice than to go abroad in order to educate their children with autism in a specialised school, which constitutes direct discrimination against them;
- the limited funds in the state's social budget for the education of children and adolescents with autism (Autism Plan, "plan Autisme") indirectly disadvantaging persons with disabilities.

2. Information provided by the Government

With regard to the right of children and adolescents with autism to be educated primarily in mainstream schools

In its report, the Government provides information on the number of pupils with Autism Spectrum Disorders (ASD) in mainstream schools and on developments under the Fourth Autism Plan and Law No. 2019-791 on a school of trust to promote the integration of pupils with autism at school (for further information, see the fourth assessment of the follow-up to the decision in *Autism-Europe v. France*, Complaint No. 13/2002).

With regard to the right of young persons with autism to vocational training

The information provided by the Government tallies with that provided in its previous report.

In particular, the Government points out that the data come from several ministerial departments and are not centralised, making them difficult to use. It does, however, consider it useful to highlight its strategy for the employment of people with disabilities by setting out the reform of the requirement to employ persons with disabilities (OETH) and, especially, the changes brought about by Law No. 2018-771 on the freedom to choose one's professional future.

The strategy is steered at national level by a follow-up monitoring committee set up in November 2019 with a view to ensuring continuous improvement and implemented at local/regional level by local stakeholder involvement and co-operation. In practice, it aims to encourage companies to take a positive approach to recruiting people with disabilities and ensure that they no longer prefer to pay fines rather than comply with the requirements. For example, the law on the freedom to choose one's professional future, which reformed apprenticeships and vocational training, also tightened the rules for calculating the number of people with disabilities companies must employ from 1 January 2020.

The Government further notes that by adopting this law, it has undertaken to improve access to apprenticeships for people with disabilities, too, by:

- increasing the number of jobs created in social enterprises supporting the employment of people with disabilities ("adapted enterprises") from 40,000 to 80,000 by 2022;
- ensuring France's 965 Apprentice Training Centres (CFAs) are accessible to all, for example, through the entry into force on 1 January 2019 of the requirement to appoint a disability adviser;
- taking joint measures with local authorities to foster access to employment for people with disabilities (and adapting the content of apprenticeship programmes and positions accordingly);
- increasing the level of financial support for apprenticeships.

With regard to the educational nature of work done in specialised institutions caring for children and adolescents with autism

In its report, the Government points out that the number of teaching staff delegated by the Ministry of Education and Youth to specialist establishments amounts to about 7,000 Full-Time Equivalent Posts (FTEs) for all types of disability.

With regard to families having no other choice than to go abroad in order to educate their children with autism in a specialised school

In its report, the Government provides information on the number of pupils with ASD being taught in socio-medical settings and institutions (13,000) and in health care institutions (2,400) as of September 2019; see fourth assessment of the follow-up to the decision in *Autism-Europe v. France*, Complaint No. 13/2002.

It also notes that the process of moving teaching units from the socio-medical sector to mainstream schools is under way. In terms of schooling for children with autism, this shift is being implemented as part of the Autism Strategy, including setting up 180 new ASD teaching units in nursery schools (UEMAs), in addition to the 112 created under the previous plan, and 90 ASD teaching units in primary schools (UEEAs). These units operate with teaching staff from the Ministry of Education working with staff from the socio-medical sector.

With regard to the budget for the education of children and adolescents with autism

The budgetary data from the Autism Plan concerning schooling were provided for the third follow-up assessment: €11 million for the 180 UEMAs to be set up and €10.6 million to introduce general or specialised local inclusive education units (ULISs) to help pupils with ASD in mainstream schools (of all levels). One change should be noted, however: the funding for UEEAs (the number of which increased from 45 to 90 following the National Disability Conference held in February 2020) rose from €3.82 million to €8 million.

The Government states that in addition to setting up new classes, it is also providing extra support for teachers by allocating €6.1 million to appoint 101 ASD specialist teachers and introducing remote training courses for staff development.

3. Assessment of the follow-up

The Committee notes the efforts made by the French authorities to ensure pupils with autism are primarily educated in mainstream schools both in terms of providing funding and of setting up and improving systems to promote their integration at school and offer them individual

supervision and support. On these points, it refers to the fourth assessment of the follow-up to the decision in *Autism-Europe v. France*, Complaint No. 13/2002.

With regard to vocational training for young people with autism, the Committee notes the measures taken to encourage and assist companies to recruit people with disabilities and to ensure their integration in the workplace. It notes, however, that the report provides only very general information on vocational training for young people with autism (i.e. on the accessibility of apprenticeship training centres and increased financial support for apprenticeships). There is not enough information for the Committee to assess whether the right of young people with autism to vocational training is guaranteed. The Committee asks for detailed information in the next report on concrete measures taken to guarantee the right of young people with autism to vocational training and the results of these measures (including the number of young people with autism receiving or awaiting vocational training).

Likewise, the Committee cannot assess whether the work done in specialised institutions caring for children and adolescents with autism is educational in nature because the Government did not provide enough information (i.e. only stating that the Ministry of Education and Youth delegated approximately 7,000 FTEs to specialist establishments, for all types of disability).

With regard to families having no other choice than to go abroad in order to educate their children with autism in a specialised school, the Committee notes that the Government's report provides information on the number of pupils with ASD being taught in socio-medical settings and institutions and in health care institutions as of September 2019 and on the process of shifting teaching units from the socio-medical sector to mainstream schools. This information, while useful, does not give the Committee a full picture of the situation. In this respect, the Committee notes that the Government published the 12 commitments it made at the National Disability Conference held in February 2020 and that its seventh commitment aims to "[s]peed up the roll-out of appropriate solutions for those with the greatest needs and stop people leaving for Belgium [to access such solutions]" (https://handicap.gouv.fr/la-conference-nationale-du-handicap-cnh). The Committee asks for detailed and updated information in the next report on the measures to tackle the issue of families having to go abroad to educate their children with autism in special schools when they would prefer to stay in France and on the results of such measures.

In the light of the above, the Committee considers that the situation has not been brought into conformity with Article 15§1 of the Charter with regard to the right of young persons with autism to vocational training and as regards the work done in specialised institutions caring for children and adolescents with autism not being predominantly educational in nature. Nor does it find that the situation has been brought into conformity with Article E of the Charter read in conjunction with Article 15§1 with regard to the limited funds in the state's social budget for the education of children and adolescents with autism and as regards families having no other choice than to go abroad in order to educate their children with autism in a specialised school.

3rd Assessment of the follow-up: European Council of Police Trade Unions (CESP) v. France, Complaint No. 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

In its decision, the Committee found a violation of Article 5 of the Charter ("right to organise") when the *Gendarmerie Nationale* is functionally equivalent to a police force.

Members of the police force must be free to form or join genuine organisations for the protection of their material and moral interests, and these organisations must be able to enjoy the bulk of trade union prerogatives.

These constitute minimum guarantees relating to (i) the formation of their professional associations; (ii) the prerogatives of a trade union nature which they may exercise; and (iii) the protection of their representatives.

The decision also concerns a violation of Article 6§2 ("right to collective bargaining"). National professional associations of military personnel ("APNM") are not equipped to effectively defend the moral and material interests of their members in all respects.

2. Information provided by the Government

As in its previous report, the Government recalls the constituent elements of the Law of 28 July 2015, which establishes a legal regime specific to national professional associations of military personnel (cf. Articles L.4126-1 et seq. of the Defence Code), set out at regulatory level (Articles R4126-1 et seq. of the Defence Code, and the Instruction of 24 July 2019 relating to the resources granted to national professional associations of military personnel).

On the measures put in place to comply with the provisions of Article 5 of the Charter

- Freedom to form associations and to pursue trade union prerogatives

The report recalls that the Decree of 21 October 2016 distinguishes three categories of national military professional associations (APNM): 1) declared APNMs; 2) declared APNMs, recognised as representative in respect of one or more Armed Forces and attached formations (FAFR); 3) declared APNMs, recognised as representative in respect of one or more FAFR, which sit on the *Conseil supérieur de la fonction militaire* (CSFM).

The report states that the APNMs exercise their right to organise in accordance with the provisions of Articles R4126-10 and R4126-15 of the Defence Code. These provisions allow members of these associations to benefit from a credit for associative time (managed by the Directorate of Human Resources of the Ministry of the Armed Forces (DRH-MD)) to devote themselves to associative activity. They can also collect membership forms and subscriptions within the military fora.

In addition, the members of the representative APNMs sitting on the CSFM may speak on behalf of the APNM to which they belong. The communiqués and reports of the CSFM and the *Conseil de la fonction militaire gendarmerie* (CFMG) are accessible to the APNMs.

- The need to see its members protected

In order to respect the principle of non-discrimination between members and non-members of the APNM, military personnel receiving communications from the APNM may not be questioned about their situation with regard to the APNM, let alone be the subject of files.

- Provision of premises

As soon as an APNM is recognised as representative under one or more Armed Forces and attached formations (FAFR), each of these FAFRs must provide the association, free of charge, with permanent premises, including the equipment necessary for the pursuit of the association's activities.

They can organise meetings outside service hours. They may also request services such as the loan of equipment and the provision of premises, which are made available free of charge.

On the measures put in place to comply with the provisions of Article 6§2 of the Charter

- Subsidies allocated to APNMs

The report states that representative NMAs may benefit from subsidies distributed in proportion to the number of members, in the case of all representative NMAs, and/or in proportion to the number of seats on the CSFM in the case of NMAs sitting on that body. Each association applies for a subsidy from the DRH-MD of the Ministry of the Armed Forces.

- The means of communication dedicated to APNMs

The APNMs may create their own communication media and, as part of their internal communication, they may use the administration's digital means of communication (in accordance with the provisions of Article R4126-11 of the Defence Code).

In addition, they benefit from a dedicated space on APG Connect, managed by the HRD-MD. At the local level, the documents emanating from the APNM are displayed on boards arranged in such a way as to ensure the conservation of these documents. These panels must be placed in premises (corridors in particular) which are easily accessible to staff, except in premises which are specially assigned to receiving the public. The posted documents are handed over simultaneously to the administrative training commander or head of organisation. They must bear the name of the issuing association and the date.

3. Assessment of the follow-up

The Committee takes note of the information provided by the Government.

On the measures put in place to comply with the provisions of Article 5 of the Charter

- *Freedom to form associations and to pursue trade union prerogatives*

The Committee notes that the right of military personnel to create and join national professional associations of military personnel (APNM) is granted by Law No. 2015-917 of 28 July 2015 and governed by articles R4126-1 to R4126-17 of the Defence Code (legal capacity; representativeness; exercise of the right of professional association).

The Committee also notes the three categories of APNMs distinguished by Decree of 21 October 2016: 1. the declared APNMs; 2. the declared APNMs, recognised as representative for one or more Armed Forces and related formations (FAFR); 3. the declared APNMs, recognised as representative under one or more of the FAFR, which sit on the *Conseil supérieur de la fonction militaire* (CSFM).

The Decree of 11 December 2019 (n° ARMH1936184A) shows that six APNMs have been recognised as representative under one or more FAFRs.

The relevant provisions of the Defence Code emphasise that the purpose of the APNM is to preserve and promote the interests of the military with regard to the military condition (Article L. 4126-2). As defined in Article L. 4111-1 of the Defence Code, '*Military status covers all the obligations and constraints specific to the military state, as well as the guarantees and compensation provided by the Nation to military personnel. It includes statutory, economic, social and cultural aspects likely to have an influence on the attractiveness of the profession and career paths, the morale and living conditions of military personnel and their dependents, the professional situation and environment of military personnel, support for the sick, wounded and families, as well as conditions of departure from the armed forces and employment after the exercise of the military profession*".

In its previous finding the Committee noted that Article L. 4126-3 of the Defence Code sets out a framework for as well as resources dedicated to the exercise of the activities of APNM, which ensure that the right to organise of military personnel is guaranteed (Findings 2020).

The Committee also noted that the CSFM is the institutional framework within which the military can express their opinions on matters of a general nature to the Minister of the Armed Forces and within which the constituent elements of the status of the military as a whole are examined. While the Committee noted that 16 seats in the CSFM are reserved for members of the representative APNMs, unions or federations, it also observed that the conditions set out in Article L 4126-8-II and Article L3211-1 of the Defence Code for allocating the 16 seats for the representative APNMs make it impossible in practice for them to participate in this body, as in practice the 16 seats reserved for members of the APNM have to date always remained vacant.

The Committee further noted that in response to a written parliamentary question, published in the *Journal Officiel* on 25 June 2019, the Minister of the Armed Forces announced that a reflection on the conditions of representativeness of the MNPAs would be conducted from 2021. The Committee therefore requested that the Government inform it of the outcome of the work of reflection to be conducted on the conditions of representativeness of the APNMs.

The Minister also reiterated that the APNMs must have significant influence to be entitled to sit on the CSFM, i.e. the overall membership must be equal to a minimum percentage of the total membership of the FAFR and the membership in each rank group must be equal to a minimum percentage of the total membership in that rank group. The Committee noted that, as a transitional measure until 1 January 2021, this minimum percentage has been set at 1% but that it should reach the 5% threshold from that date.

While the Committee considered that the double percentage of 1% and 5% required is reasonable and proportionate, it nevertheless noted that, due to the specificities of certain groups of ranks, whose numbers are sometimes very volatile (e.g. the volunteer Assistant Gendarmes), it may be difficult to achieve if the APNMs do not have suitable means of communication, and in particular the administration's digital means of communication (e.g. access to the Ministry's intranet pages; authorisation to use the mailing technique; installation of signs easily accessible to staff).

It emerged from the information available to the Committee in the previous report that the Government, contrary to the provisions of Article 12 of the Law of 28 July 2015, had not submitted to Parliament within 18 months of its promulgation a report on the implementation of all the provisions relating to consultation and social dialogue among the military.

In the light of these various elements, the Committee considered that the APNM, while enjoying the freedom to form associations, are not in practice able to sit on the CSFM, the representative body at the heart of military consultation, and therefore unable to ensure the preservation and promotion of the interests of the military with regard to the military condition.

The Committee asks the Government to provide information with its next report on measures taken or envisaged to ensure the right of APNMs to sit on the CSFM. Pending receipt of this information, the Committee considers that the situation has not been brought into conformity on this point and that the Charter rights at stake are not guaranteed in a concrete and effective manner.

- *On the need for protection of MNPA members*

The Government states that in order to respect the principle of non-discrimination between members of the MNPAs and non-members, military personnel who receive communications from the MNPAs cannot be questioned about their situation with regard to the MNPAs, *let alone be the* subject of files.

In its previous assessment the Committee noted that Article R 4126-8 of the Defence Code stipulates that each time the CSFM is renewed, the Minister of Defence shall draw up a list of representative national military professional associations and shall also determine which ones may sit on it. The article stipulates that the number of members declared by the associations is first verified by a commission provided for in Article R. 4124-22 and that the personal information relating to the members of these associations is sent to the chairman of the commission for the sole purpose of verifying that they meet the conditions set out in 4° of I and II of Article L. 4126-8.

The regulatory provision specifies that the processing of the information contained in the membership lists and the storage of this information are carried out in compliance with the security and confidentiality obligations laid down by Law No. 78-17 of 6 January 1978 relating to information technology, files and freedoms.

The Committee also noted that the decision of the Council of State of 9 February 2018 (No. 406742) annulled certain provisions of the Order of 21 October 2016 which obliged the APNMs requesting recognition of their representativeness to transmit to a body directly under the authority of the Ministry a list of their members, detailing their rank, surname, first names, armed force or formation attached and the defence identification number (NID) of each member.

The Committee requested that the Government provide information on how the control of membership lists declared by the APNMs is now carried out and to what extent this data is kept or, where appropriate, returned to the APNMs. As the requested information was not contained in the report, the Committee asks that it be included in the next report.

Consequently, the Committee considers that the situation has not been brought into conformity on this point and that the Charter rights at stake are not guaranteed in a concrete and effective manner.

- *Provision of premises*

The Government indicates that when an APNM is recognised as representative under one or more Armed Forces and Attached Formations (FAFR), each of these FAFRs must provide the association, free of charge, with permanent premises, including the equipment necessary for the pursuit of the association's activities. They may organise meetings outside service hours. They may also request services such as the loan of equipment and the provision of premises, made available free of charge.

The Committee considers that the situation complies with Article 5 of the Charter on this point.

On the measures put in place to meet the provisions of Article 6§2 of the Charter

- *Subsidies allocated to APNMs*

In its report, the Government specifies that the representative APNMs may benefit from subsidies distributed in proportion to the number of members, in the case of all the representative APNMs, and/or in proportion to the number of seats on the CSFM in the case of the APNMs sitting on that body. Each association applies for a subsidy from the DRH-MD of the Ministry of the Armed Forces.

In its previous finding the Committee noted that the viability of some APNMs representing services that are by nature small in size may depend on the allocation of such subsidies (Findings 2020). Consequently, it requested that the Government specify the calculation methods used to allocate subsidies to the six APNMs recognised as representative by the decree of 11 December 2019 and the amounts actually paid. It also requested that the Government specify whether the credits opened in the budget programmes of the "defence" mission are intended to be continued.

The Committee also noted that, under the current provisions, only a "Union of MMFNs" could theoretically come to sit on the CSFM because of the number of existing armed forces. Therefore, in the event that such a "Union of the APNMs" were to become a member of the CSFM, the Committee requested that the Government indicate how the amount of the grant funds would then be distributed.

As the requested information was not contained in the report, the Committee asks that it be included in the next report.

Pending receipt of the requested information, the Committee considers that the situation has not been brought into conformity on this point.

- *The means of communication dedicated to APNMs*

It emerges from the report provided by the Government that the APNMs can create their own communication media and, as part of their internal communication, they can make use of the administration's digital means of communication. The Government also points out that they benefit from a dedicated space on APNM Connect, a space managed by the HRD-MD.

In its previous finding the Committee considered that the APNMs, in order to effectively defend the moral and material interests of its members in all respects, must have adequate means of communication, and in particular the administration's digital means of communication,

including access to the Ministry's intranet pages and the possibility of using the "mailing" technique (Findings 2020). The Committee requested that the Government clarify whether such possibilities are enjoyed in practice by the APNMs.

As the requested information was not contained in the report, the Committee asks that it be included in the next report. Meanwhile,, the Committee considers that the situation has not been brought into conformity on this point.

2nd Assessment of the follow-up: European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No.114/2015, decision on the merits of 24 January 2018, Resolution CM/ResChS(2018)8

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

In its decision, the Committee found violations of the following provisions of the Charter:

A. Violation of Article 17§1 of the Charter

The Committee found a violation of Article 17§1 of the Charter due to

- the shortcomings noted in the national shelter, assessment and guidance system for unaccompanied foreign minors;
- delays in the appointment of an ad hoc administrator for unaccompanied foreign minors;
- the detention of unaccompanied foreign minors in waiting areas and hotels;
- the use of bone testing to determine the age of unaccompanied foreign minors considered inappropriate and ineffective;
- legal insecurity surrounding access to an effective remedy for unaccompanied foreign minors.

B. Violation of Article 17§2 of the Charter

The Committee found a violation of Article 17§2 of the Charter due to the lack of access to education for unaccompanied foreign minors aged between 16 and 18.

In its Findings 2020, the Committee concluded that the situation which had led to the findings of violations of Article 17§2 had been brought into conformity.

C. Violation of Article 7§10 of the Charter

The Committee found a violation of Article 7§10 of the Charter because of inappropriate accommodation of minors or their exposure to life on the street.

D. Violation of Article 11§1 of the Charter

The Committee found a violation of Article 11§1 of the Charter due to the lack of access to health care for unaccompanied foreign minors.

E. Violation of Article 13§1 of the Charter

The Committee found a violation of Article 13§1 of the Charter due to the lack of access to social and medical assistance for unaccompanied foreign minors.

F. Violation of Article 31§2 of the Charter

The Committee found a violation of Article 31§2 of the Charter due to the failure to provide shelter for unaccompanied foreign minors.

2. Information provided by the Government

A. Violation of Article 17§1 of the Charter

- *on the shortcomings identified in the national system for the sheltering, assessment and guidance of unaccompanied foreign minors*

The report mentions the entry into force of Decree No. 2019-57 of 30 January 2019 on the procedures for assessing persons declaring themselves to be minors and temporarily or permanently deprived of the protection of their family and authorising the creation of personal data processing relating to these persons. Therefore, the Committee refers to its previous finding (Findings 2020) for the detailed description.

The report indicates that the number of unaccompanied [foreign] minors (hereafter "UFMs") assigned to child protection services by judicial authorities decreased by 44.3% between 2019 and 2020 (as of 30 November 2020, 8,759 UFMs had been assigned by judicial authorities, compared to 15,734 as of 30 November 2019). The report attributes this drop in new arrivals to the health crisis and particularly to border closures. The report notes, however, that the child protection system is hampered by severe structural limitations persisting despite the cyclical downturn in 2020.

The report states that the order of 20 November 2019 adopted pursuant to Article R. 221-11 of the Social Action and Family Code on the procedures for assessing persons claiming to be minors temporarily or permanently deprived of the protection of their family, enables presidents of *département* councils to ask prefects for Minority Assessment Assistance Files (hereafter "AEMs") including any useful information for determining the identity and situation of such persons. According to the report, 78 *départements* have chosen to adopt this procedure by signing an agreement with prefectures. In addition, the Ministry of Justice's Unaccompanied Minors Task Force (hereafter "MMNA"), which is in regular contact with the *département* councils, noted that the AEMs facilitated assessments to establish young people's age and unaccompanied status and, in particular, avoided duplicate assessments. The Ministry of the Interior intends to roll out the AEM system across the country.

The Government also reports that, as a follow-up to the abovementioned order of 20 November 2019, a best practice guide on assessments to verify the age and unaccompanied status of persons claiming to be UFMs was published on 23 December 2019. The report states that the guide was drawn up by a working group composed of representatives from the Ministry of Justice, the Ministry of Solidarity and Health, the Ministry of the Interior, the Ministry of Territorial Cohesion and Relations with Local and Regional Authorities, judicial authorities, *départements* and the voluntary sector. The guide is intended for professionals who may be required to deal with persons identifying themselves as UFMs. It includes the relevant legal framework, identifies best practices and provides a detailed description of the social assessment procedure.

The report recalls that in order to harmonise practices for the assessment of minority and isolation, training (one to two sessions per year) for professionals responsible for assessing the situation of UFMs has been conducted since 2016 by the national training centre for the territorial civil service (CNFPT) and the national school for the judicial protection of youth (ENPJJ) (see the Findings 2020 for more details). The report also recalls the functioning of MMNA of the Ministry of Justice. However, no new training sessions involving the MMNA took place in 2020.

- *on delays in the appointment of an ad hoc administrator for unaccompanied foreign minors*

The Committee notes that the information provided by the Government corresponds to that provided in the previous report. Therefore, the Committee refers to its previous assessment (Findings 2020) on this complaint for a detailed description on this point.

- *on the use of bone tests to determine the age of unaccompanied foreign minors considered inappropriate and ineffective*

The report recalls the provisions of Article 388 of the Civil Code and the guarantees surrounding the use of these examinations (recourse to tests only in the absence of valid identity documents and when the alleged age is not likely; only to be carried out by decision of the judicial authority and after obtaining the agreement of the person concerned; conclusions which must specify the margin of error and which alone cannot make it possible to determine whether the person concerned is a minor, etc.) (see the Findings 2020 for more details).

- *on the legal insecurity surrounding access to an effective remedy for unaccompanied foreign minors*

The Committee notes that the information provided by the Government corresponds to that provided in the previous report. Therefore, the Committee refers to its previous assessment (Findings 2020) on this complaint for a detailed description on this point.

B. Violation of Article 11§1 of the Charter due to the lack of access to health care for unaccompanied foreign minors

The report recalls that the High Council of Public Health has been asked to produce national recommendations on health check-ups for UFMs. It states that these recommendations were issued in November 2019. It would be up to the *départements* in charge of child welfare (ASE), of the assessment and sheltering of young people presumed to be minors, to implement this specific assessment. The same would apply to access to social and medical assistance and the opening up of social rights for these young people.

C. Violation of Article 13§1 of the Charter due to the lack of access to social and medical assistance for unaccompanied foreign minors

- *At the time of the evaluation*

The report recalls that the State makes a financial contribution to the *départements* which includes the carrying out of an initial assessment of health needs from the shelter and minority and isolation assessment phase. This contribution concerns young people assessed since 1 January 2019 (Decree no. 2019-670 of 27 June 2019 relating to the State's flat-rate contribution to the sheltering and assessment phase for persons declaring themselves to be minors and temporarily or permanently deprived of the protection of their family and to the committee provided for in Article R. 221-15 of the Social Action and Family Code).

The report also states that, in addition to the national recommendations relating to the health check-up, a national reference framework currently will be drawn up in the course of 2021 to harmonise practices in terms of health care for young people during the assessment and isolation phase (content of the assessment of initial health needs, methods of referral to ordinary health structures, liaison tools, etc.).

- *At the end of the assessment for UFMs in care of child welfare services*

The report states that UFMs fall under the general law of child protection. As such, as soon as they are admitted to ASE, they benefit from full health coverage (universal health protection and complementary health care). Their care needs are integrated into the Child Project (PPE), a document which structures their support. In addition, the national prevention and child protection strategy implemented in 2020 aims to systematically provide a comprehensive health check-up for children and adolescents when they enter child protection systems. This check-up should make it possible to initiate regular and coordinated medical monitoring and will be covered by health insurance from 2020.

The Government states that in the context of the Covid-19 epidemic and the first nationwide lockdown, which included strict restrictions on unnecessary travel, the State Secretary for Child Protection decided to suspend transfers of minors between *départements* and also to prevent anyone who had been provided shelter from being released back onto the streets. According to the report, between 16 March and 28 June 2020, whenever the national guidance and support unit for judicial decision-making was contacted by judicial authorities for an opinion, it systematically advised keeping children in the *départements* where they were being assessed. A ministerial guide was drawn up to support *départements* and child protection workers as lockdown measures were lifted. When a public health state of emergency was declared again on 16 October 2020, no special provisions were made for UFMs, except for a moratorium on ending child protection services for young adults or those coming of age from that date, pursuant to Article 18 of Law No. 2020-290 of 23 March 2020. As a result, releasing young people coming of age during this period from social care was prohibited until 16 February 2021.

3. Assessment of the follow-up

The Committee takes note of the information provided by the Government.

A. Violation of Article 17§1 of the Charter

- *on the shortcomings identified in the national system for the sheltering, assessment and guidance of unaccompanied foreign minors*

The Committee previously took note of the information according to which the Government created, by an implementing decree of 30 January 2019 of Article L 611-6-1 of the CESEDA, a file containing several data (fingerprints; photograph) of foreign nationals declaring themselves to be minors. The Committee understands that this new file (AEM) makes it possible, among other things, to avoid re-evaluations that are detrimental to the care system.

According to the information provided, the order of 20 November 2019, adopted pursuant to Article R. 221-11 of the Social Action and Family Code [on the procedures for assessing persons claiming to be minors who have been temporarily or permanently deprived of the protection of their family], enables presidents of *département* councils to ask prefects for AEMs including any useful information for determining the identity and situation of such persons. The Committee notes that 78 *départements* adopted this procedure by signing an agreement with prefectures. The report indicates that the MMNA has already seen a reduction in the number of duplicate UFM assessments.

The Committee notes that the Ministry of the Interior intends to roll out the AEM system across the country. It asks for information in the next report on whether this system has been implemented nationwide. The Committee reiterates its request for data, broken down by *département*, on the refusal rates for applications by persons claiming to be minors seeking access to child protection services.

The Committee asks again the authorities to specify the methods by which the data of young people who have reached the age of majority who have been evaluated are entered in the file of foreign nationals (AGDREF) and to what extent the latter can be examined before their situation is referred to the judge. The Committee reiterates its request for details of the arrangements for consulting the file at the same time as the "Visabio" file.

The Committee notes a decrease (of 16.8% between 2019 and 2020) in the number of provisional placement orders issued without prior requests to the national unit operating under the supervision of the Directorate for the Judicial Protection of Young People, although this unit is responsible for keeping up-to-date statistics on any placements at *département* level. The Committee notes from the report that the MMNA monitors the number of placement orders (received from judicial authorities and/or *département* councils) on a daily basis. As soon as these orders are received, the MMNA records UFM placements by *département* to keep track of the overall intake.

The Committee takes note of the publication on 23 December 2019 of a best practice guide on assessments to verify the age and unaccompanied status of persons claiming to be UFMs. According to the report, this guide serves as a practical tool for assessment services and as a reminder of the relevant legal framework. The Committee therefore reiterates its request for the Government to specify whether this guide will also be used as part of the training courses held for professionals responsible for assessing the situation of UFMs by the national training centre for local government (CNFPT) and the national academy for the judicial protection of young people (ENPJJ).

In addition, the Committee noted in its previous assessment (Findings 2020) that the national strategy for prevention and child protection 2020-2022 proposes to better anticipate the examination of the conditions of the residence permit that young foreigners must hold on reaching the age of majority from the age of 17. The Committee reiterates its requests for statistical information on this issue, in particular on the results achieved.

In the light of the above, the Committee considers that the situation has not been brought into conformity.

- *on delays in the appointment of an ad hoc administrator for unaccompanied foreign minors*

The report recalls the provisions in force concerning the implementation of the right to a legal representative, and in particular ad hoc directors (see Findings 2020).

The Committee recalls that the relevant provisions of the CESEDA do not distinguish between minors and adults with regard to their being kept in the waiting zone, except for the immediate appointment of an ad hoc administrator by the Public Prosecutor. It notes again that the Government has not reported any change in the conditions under which UFMs are handled in the holding area, in particular at Roissy-Charles de Gaulle and Orly airports, where the Committee had highlighted several shortcomings.

The Committee considers that the situation has not been brought into conformity on this point.

- *on the detention of unaccompanied foreign minors in waiting areas and hotels*

The Committee notes again that the Government has not provided any information on this issue, in particular concerning the care arrangements at Roissy-Charles de Gaulle and Orly airports, which do not allow sufficient consideration to be given to the specific needs of these minors.

The Committee points out that the accommodation of minors living together with adults and the accommodation of minors in hotels are contrary to the Charter.

Therefore, the Committee considers that the situation has not been brought into conformity on this point.

- *on the use of bone tests to determine the age of unaccompanied foreign minors considered inappropriate and ineffective*

The Committee takes note of the information provided and the strengthening of the guarantees surrounding the use of bone age tests. Therefore, the Committee reiterates its position that such age assessments, based on bone examination, can have serious consequences for the juvenile and are inappropriate and ineffective.

The Committee considers that the situation has not been brought into conformity on this point.

- *on the legal insecurity surrounding access to an effective remedy for unaccompanied foreign minors*

The Committee notes again that the report, which sets out the existing general law provisions on the right to a legal representative, does not contain any information in response to the Committee's conclusions on delays in appointing a legal representative to represent a juvenile in court proceedings.

Consequently, the Committee considers that the situation has not been brought into conformity on this point.

B. Violation of Article 7§10 of the Charter due to the inappropriate accommodation of minors or their exposure to life on the street

The Committee notes that the report does not contain any information on the inappropriate accommodation of minors or their exposure to life on the street.

In this respect, the Committee recalls that the Government must take the necessary measures to guarantee the minors the special protection against physical and moral hazards required by Article 7§10, thereby causing a serious threat to their enjoyment of the most basic rights, such as the right to life, to psychological and physical integrity and to respect for human dignity.

Consequently, the Committee considers that the situation has not been brought into conformity on this point.

C. Violation of Article 11§1 of the Charter due to the lack of access to health care for unaccompanied foreign minors

And

D. Violation of Article 13§1 of the Charter due to the lack of access to social and medical assistance for unaccompanied foreign minors

The Committee notes that persons recognised as unaccompanied minors are subject to ordinary child protection law and, as such, are entitled to full health coverage (universal health protection and complementary health care) from the moment they are admitted to ESA. Moreover, the national strategy for prevention and child protection aims to make systematic a comprehensive health check-up for children and adolescents on entry into child protection systems and to make it possible to initiate regular and coordinated medical monitoring, which will be covered by health insurance as of 2020.

The report states that in November 2019, the High Council for Public Health published national recommendations on the health check to be carried out on UFMs. It is up to the *départements* to implement this specific health check and to ensure access to social and medical assistance and social rights for these young people. In addition, a national reference framework currently will be drawn up in the course of 2021 to harmonise practices in terms of health care for young people during the assessment and isolation phase.

The Committee asks again that the Government informs it of the manner in which the Government intends to implement them, providing, where appropriate, statistical data, disaggregated by *département*. Information is also expected on the modalities of access to social and medical assistance, as well as on the opening of social rights for these young people.

The Committee reiterates its requests for information on the access to health services of persons who have not been recognised as UFMs and who have initiated legal proceedings to challenge this assessment. In particular, the Committee requests specific information on the situation of persons declared to be of full age who do not meet the three-month residence requirement in the territory.

The Committee notes that in the context of the Covid-19 epidemic, transfers of minors between *départements* were suspended for various reasons, including ensuring that those in shelter would not be released back onto the streets. A ministerial guide was also drawn up to support *départements* and child protection workers as lockdown measures were eased. When a public health state of emergency was declared again on 16 October 2020, it included a moratorium on ending child protection measures for young adults or those coming of age from that date (Article 18 of Law No. 2020-290 of 23 March 2020). The Committee notes that, according to the report, releasing young people coming of age during this period from social care was prohibited until 16 February 2021. The Committee asks the Government to notify it of any change in the situation on this point.

Pending receipt of this information, the Committee considers that the situation has not been brought into conformity on this point.

E. Violation of Article 31§2 of the Charter due to the failure to provide shelter for unaccompanied foreign minors

The Committee notes that the report contains no information in response to the violation found of Article 31§2.

Accordingly, the Committee asks again that the Government specify in its next report how it intends to guarantee the right to shelter for UFMs, and in particular by what means and in what time frame it intends to prevent and reduce the condition of homeless foreign minors with a view to its elimination.

The Committee considers that the situation has not been brought into conformity on this point.

2nd Assessment of the follow-up: European Roma and Travellers Forum (ERTF) v. France, Complaint No. 119/2015 decision on the merits of 5 December 2017, Resolution CM/ResChS(2018)4

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

In its decision, the Committee found violations of the following provisions of the Charter:

A. Violation of Article 17§2 of the Charter, taken alone and in combination with Article E

The Committee found a violation of Article 17§2 of the Charter, taken alone and in combination with Article E, due to the lack of guarantees ensuring the application of the right to education in the context of expulsion procedures.

B. Violation of Article E in combination with Article 10§§3 and 5 of the Charter

The Committee found a violation of Article E in combination with Article 10§§3 and 5 of the Charter, due to the failure to comply with the positive obligation of treating in a different way to persons in a different situation.

C. Violation of Article E combined with Article 31 of the Charter;

In its Findings 2020, the Committee concluded that the situation which had led to the findings of violations of Article E read in conjunction with Article 31 had been brought into conformity.

D. Violation of Article E combined with Article 30 of the Charter.

2. Information provided by the Government

The information provided by the Government corresponds to that provided in the previous report, in particular:

The report indicates that the State's action in terms of evacuating illegal camps is part of the 25 January 2018 Circular aimed at giving a new impetus to the reduction of shanty towns by advocating a comprehensive approach in the fight against extreme precariousness.

This instruction aims to go beyond the approach centred on evacuations and to place public intervention in a broader dimension, from the setting up of the camp to its disappearance, through the prevention of installations, and combining at the same time integration programmes in France, respect for the laws of the Republic and the right of residence, resettlement actions in the country of origin and transnational cooperation. This approach covers all issues: access to rights, schooling, access to employment, housing and care.

In 2019, the measures taken in the 42 *départements* concerned enabled the schooling of 1,584 children and health support for 3,678 people. In terms of access to housing, 369 people have gained access to housing and 212 to accommodation. In terms of training and employment, these actions have enabled 1,946 people to receive support in finding employment and 938 people to gain access to employment.

In addition, the report indicates a doubling of funding for 2020, from €4 million to €8 million, with the aim of halving the population living in shanty towns by 2022.

Moreover, the report indicates that the Directorate General of School Education (DGESCO) sent a letter on 10 October 2018 to draw the attention of rectors to the implementation of the Ministerial Circular of 25 January 2018 on the schooling of children living in illegal camps.

The report also states that territorial dialogues already exist most often in the sectors concerned, involving the social action services of the National Education system and the referents of the academic centres for the schooling of newly arrived allophone pupils (EANA) known as CASNAV (cf. the examples of Aix Marseille, Lille, etc.).

Within the framework of the National Commission for Slum Clearance, a working group on "schooling and children's rights" was initiated on 14 March 2019. Led by the Interministerial Delegation for Housing and Access to Housing (DIHAL), it brings together associations and professionals from the French National Education system (CASNAV trainers, teachers, school heads, headmasters, etc.) to exchange and testify about innovative systems or approaches. Within the framework of these actions, 80% of children have been able to attend school.

At the same time, awareness-raising actions aimed at a better understanding of the difficulties of life in illegal camps are beginning to develop at the initiative of the CANOPE networks of the French National Education Ministry (*Réseau de création et d'accompagnement pédagogiques*), and in partnership with the CASNAV.

3. Assessment of the follow-up

The Committee takes note of the information provided by the Government.

The Committee notes that there has been no new development since its previous assessment of the follow-up (Findings 2020).

In its previous assessment, the Committee noted the significant increase in the budget allocated by the DIHAL to support projects to accompany the dismantling of settlements, in particular individualised diagnoses, as well as the objectives for 2022 to halve the European population living in shanty towns (i.e. around 6,000 people), to double the number of people concerned by a support action, to double the number of children enrolled and supported in their schooling, to enrol all children in school within the framework of support actions and to provide access to employment for more than 4,000 people over 3 years (2020, 2021, 2022).

The Committee asked whether the Government intended to extend the 2022 targets for school enrolment and support for children's schooling to all the shantytowns identified. It also asked to specify how the stated objectives were to be implemented and what concrete results were achieved. Details were also requested on the exact number of children out of school in these sites (in absolute numbers and percentages). The Government's report does not contain answers to these questions. The Committee therefore reiterates them.

In the light of the above, the Committee considers that the situation has not been brought into conformity.

1st Assessment of the follow-up: *Confédération générale du travail* (CGT) v. France, Complaint No. 154/2017, decision on the merits of 18 October 2018, Resolution CM/ResChS(2019)5

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

In its decision, the Committee concluded that there was a violation of Article 4§2 of the Charter in respect of the reasonableness of the reference period for averaging working hours under flexible working arrangements.

2. Information provided by the Government

The Government states that the adjustment of working time over a period longer than one year is a flexible working scheme consisting of varying working hours over a reference period longer than one calendar year, with employees working more than 35 hours a week during high-activity periods and fewer hours during periods of low activity, with an average being calculated for the reference period.

The report points out that only a sectoral agreement in the metalworking industry enables adjustments spanning several years to be set up at company level. The metal industry agreement also requires company agreements to include clauses on the impact of flexible working schemes on jobs and working conditions and to identify factors capable of reconciling corporate and employee interests. Under the sectoral agreement, metalworking companies introducing such schemes must take these factors into account and provide guarantees in terms of maximum working hours and employee pay.

The report states that in December 2020, the Government identified four agreements with a reference period exceeding one year, namely:

- the company agreement on working time arrangements at CEFA SAS, concluded on 27 April 2018;
- the company collective agreement at ISOTIP JONCOUX on the arrangements for counting working hours over a period exceeding one year, concluded on 25 May 2020;
- the 8th fixed-term addendum to the workplace agreement on working hours of 5 December 2005 at ALSTOM Transport's Reichshoffen site, concluded on 17 February 2020;
- the fixed-term addendum to a company agreement on annualised working hours at COLORALU, concluded on 15 July 2020.

The Government's report contains tables setting out the guarantees provided for in company and/or workplace agreements to implement flexible working time schemes over more than one year.

With regard to the right to reasonable working hours, the report states that working time averaging schemes spanning several years must not lead to an excessively heavy weekly workload, result in a heavy weekly workload continuing over too long a period, or undermine workers' right to be informed of any changes to working hours.

In particular, the report states that the four agreements mentioned above comply with statutory requirements limiting weekly working hours to 48 hours and to 44 hours over a 12-week period. The report further states that the three company or workplace agreements provide more extensive guarantees.

The Government reports that CEFA SAS sets a weekly limit of 48 hours during high-activity periods, with no more than 10 hours to be worked per day. COLORALU sets a 46-hour weekly limit during high-activity periods and also sets the following caps on average weekly hours when high-activity periods last several consecutive weeks: 44 hours per week over a period of four consecutive weeks and 42 hours over a period of 12 consecutive weeks. ISOTIP-JONCOUX caps working time at 40 hours per week during high-activity periods. Due to the business slowdown in 2020, ALSTOM has planned to introduce low-activity periods with line stoppages. During these periods, employees may benefit from various arrangements for taking days off, including the possibility of voluntarily using days held in a time saving account with a corresponding employer contribution, and 15,000 hours for staff training.

With regard to the right to fair remuneration, the Government points out that the Labour Code requires an upper limit to be put in place, i.e. by introducing a cap on the number of weekly working hours in company or workplace agreements, which, once reached, triggers the payment of these overtime hours with the month's wages. According to the report, this mechanism ensures that any overtime worked by the employees is paid within a reasonable time.

In particular, the company or workplace agreements signed by ISOTIP-JONCOUX, CEFA SAS and COLORALU introduced this capping system. They include provisions whereby pay is “smoothed out” over an average 35-hour week. At ISOTIP-JONCOUX and COLORALU, any hours worked beyond the 35-hour weekly average count as overtime. COLORALU provides for bonuses for Saturday work, which may be higher if employers schedule weekend work with less than one month’s notice. Any bonuses are then added to the month’s pay.

3. Assessment of the follow-up

The Committee takes note of all the information provided by the Government.

The Committee previously noted that extending reference periods by collective agreement up to a 12-month period would also be acceptable, provided there were objective or technical reasons or reasons concerning the organisation of work justifying such an extension (Conclusions XIX-3, Germany, Article 2§1). It also considered that the existence of longer reference periods for the averaging of working hours was not permissible, irrespective of whether the number of actual hours worked was below 48 hours per week on average and found that the situation did not comply with the Charter when the reference period for the calculation of average working hours could be extended beyond 12 months (Conclusions XIX-3, Germany, Article 2§1).

The Committee refers to its finding that a reference period longer than 12 months and up to three years has the effect of depriving workers of the increased rate of remuneration for overtime since the weekly working time can be increased over a long period without such overtime being paid at a higher rate.

The Committee notes from the Government’s report that only one sector, the metalworking industry, allows recourse to flexible working schemes spanning several years and only a few companies have signed agreements to this effect (Article L.3121-44 of the Labour Code).

In particular, the metal industry agreement requires company agreements to include clauses on the impact of flexible working schemes on jobs and working conditions and to identify factors capable of reconciling corporate and employee interests. Metalworking companies introducing such schemes must take these factors into account and provide guarantees in terms of maximum working hours and employee pay.

The Committee notes the following elements from the four agreements identified in December 2020.

With regard to compensation for overtime, the report states that the right to overtime payment is guaranteed by law through the requirement to set upper limits and reinforced by negotiations at company level to define limits which are low enough for overtime to be paid at the end of the month rather than at the end of the reference period. In particular, the company or workplace agreements signed by ISOTIP-JONCOUX, CEFA SAS and COLORALU introduced this capping system. They include provisions whereby pay is “smoothed out” over an average 35-hour week. At ISOTIP-JONCOUX and COLORALU, any hours worked beyond the 35-hour weekly average count as overtime. COLORALU provides for bonuses for Saturday work, which may be higher if employers schedule weekend work with less than one month’s notice. Any bonuses are then added to the month’s pay. The Committee asks for confirmation that CEFA SAS counts any hours worked beyond the 35-hour weekly average during high-activity periods as overtime.

Despite the information provided by the Government on the limited number of collective agreements, the Committee considers that it has not been shown that the situation is fully in conformity with Article 4§2 of the Charter.

GREECE

3rd Assessment of the follow-up:

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

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

The Committee concluded that there was a violation of Article 16 of the 1961 Charter on the following grounds:

- the insufficiency of permanent dwellings;
- the lack of temporary stopping places;
- the forced eviction of Roma families.

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

The Committee concluded that there was a violation of Article 16 of the 1961 Charter on the following grounds:

- the particular situation of Roma families is 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;
- Roma families continue 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

The Government provided information concerning the following:

Sub-standard dwellings

Further to the information contained in its 3rd simplified report (2019), the Government provides an update on the situation in the Municipality of Katerini, regarding the project on 'temporary settlement relocation upon the standards of social housing in the municipality of Katerini. The project is implemented in the framework of the 2020 Programme Agreement between EEA Financial Mechanism and the Roma Inclusion and Empowerment programme (Ministerial Decision 91761/03/09/2020 GG 4027/21.09.2020/B). The aim is to construct 56 houses for 330 persons in a settlement operating upon the social housing standards. The families that will settle have already been registered by the municipality and various accompanying interventions have been undertaken with a view to ensuring the families' gradual integration into the social fabric.

The General Secretariat for Social Solidarity and Fight against Poverty as a strategic partner of the Programme is in direct and stable cooperation with the Municipality of Katerini. Preparatory actions for the implementation of the supporting measures in the fields of education, employment, health and social inclusion have been initiated.

With a view to promoting the empowerment of Roma, a Roma Residents Association is planned to be set up in the new settlement. The settlement will operate under an internal

operating regulation and will be supported by a group of people responsible for managing the area of temporary relocation along with the participation of Roma themselves.

Forced eviction of Roma families

The Committee notes that the Government does not provide any new information further to its submissions contained in the 3rd simplified report, where it noted that the violent expulsion as a measure of removal/ expulsion of Roma from their areas of settlement cannot be proposed as a solution by the local self-government agency, except in special cases under the current legislation, while a critical element sine qua non is that the competent municipalities shall find and recommend facilities with at least basic standards of decent living, in order to achieve a smooth and peaceful relocation for the benefit of social cohesion and guarantee the rights of all those in need of protection by the State (children, families, persons with disabilities etc.) focusing on the value of the human being (principle of the inviolability of human value, Article 2, para.1 of the Constitution).

3. Assessment of the follow-up

Sub-standard dwellings

In its Findings 2020 the Committee considered that the situation had not been brought into conformity with the Charter pending information concerning the implementation of the National Strategy for the Social Integration of Roma in respect of housing conditions of Roma and on the number of relocations into transitory relocation areas and of interventions for the improvement of living conditions of existing settlements.

The Committee considers that certain progress has been made in the Katerini municipality. However, the Committee asks the Government to provide further information on the measures taken by public authorities to improve the substandard housing conditions of Roma in other areas.

Meanwhile, the Committee considers that the situation has not been brought into conformity with Article 16.

Forced eviction of Roma families

In its Findings 2020, The Committee found that the situation had not been brought into conformity with the Charter as it had not been demonstrated that there is adequate legal protection for Roma families threatened by eviction and that evictions are carried out in conditions respecting the dignity of the persons concerned. In the absence of any information in this regard, the Committee reiterates its previous finding.

Therefore, the Committee considers that the situation has not been brought into conformity with Article 16 the Charter.

4th Assessment of the follow-up: 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

In its decision, the Committee found the following violations:

A. Violation of Article 11§1 to 3

The Committee considered that there was a violation of Article 11§1 to 3 of the Charter on the ground that Greece had not managed to strike a reasonable balance between the interests of persons living in the lignite mining areas and the general interest. In particular, the Committee found a series of failures in the institutional framework of environmental controls such as modest and low-deterrent sanctions, insufficient number of inspections and insufficient information for populations living in lignite-mining areas.

B. Violation of Article 2§4

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 provide for such compensation nor does it require collective agreements to provide for it.

C. Violation of Article 3§2

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

2. Information provided by the Government

A. As regards Article 11§1 to 3

The Government states that there have not been any legislative or other developments since its previous submissions contained in the 3rd report. The report provides an update from the Labour Inspectorate of Southern Greece, Department of Quarries (TEM/SENE), according to which in 2019 fines amounting to €16,000 and €32,000 were imposed to the former DET S.A., now LIGNITIKI MEGALOPOLIS S.A., due to violations of the Quarrying and Mining Works Regulation (KMLE).

The report also provides data from the Public Power Corporation SA (DEI), according to which DEI records all accidents and publishes annual statistics which it communicates to all operational units and workers' representatives. Apart from the internal publication of statistics, the company also publishes data in the context of Corporate Social Responsibility.

B. As regards Article 2§4

The Committee notes that the Government does not provide any information concerning violation of Article 2§4 of the Charter.

C. As regards Article 3§2

See information provided under Article 11.

3. Assessment of the follow-up

A. Violation of Article 11§1 to 3

As regards violations of Article 11§1 to 3, in its Findings 2020 and 2018 the Committee noted that the Government did not provide sufficient information demonstrating the deterrent nature of fines imposed on lignite mining companies in the event of environmental damage.

The Committee considers that in the areas such as the right to safety and health at work, which are so intimately linked with the physical integrity of individuals, the state has a duty to provide precise and plausible explanations and information on developments in the number of occupational accidents and on measures taken to ensure the enforcement of regulations and hence to prevent accidents.

The Committee notes that the Government again reiterates that there is a better recording of statistical parameters for occupational accidents. The Committee again considers that the occupational health and safety measures that were implemented in the Public Power Corporation SA (DEI) represent progress.

In order to fulfil their obligations, national authorities must therefore:

- develop and regularly update sufficiently comprehensive environmental legislation and regulations (Conclusions XV-2, Addendum, Slovakia);
- take specific steps, such as modifying equipment, introducing threshold values for emissions and measuring air quality, to prevent air pollution at local level and to help to reduce it on a global scale (Conclusions 2005, Moldova, Article 11§3);
- ensure that environmental standards and rules are properly applied, through appropriate supervisory mechanisms;
- assess health risks through epidemiological monitoring of the groups concerned.

The Committee considers that despite the progress that the Government has shown in the information it has provided, it has not been demonstrated that all the above obligations imposed by Article 11 have been fulfilled. Therefore, the Committee considers that the situation has not been brought into conformity with Article 11.

B. Violation of Article 2§4

The Committee recalls 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 recalls that under no circumstances can financial compensation be considered a relevant and appropriate measure to achieve the aims of Article 2§4.

In the absence of any information in the report, the Committee finds that the situation has not been brought into conformity with Article 2§4 of the Charter.

C. Violation of Article 3§2

The Committee considers that the situation has not been brought into conformity with Article 3§2 of the Charter.

4th Assessment of the follow-up: 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

In its decision, 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 Law No. 3899 of 17 December 2010 did not make 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

The Government states that there have been no legislative or other developments as regards the issue under consideration (a reasonable period of notice before the termination of employment)

3. Assessment of the follow-up

The Committee considers that the in the absence of any legislative developments, the situation has not been brought into conformity with Article 4§4 of the Charter.

4th Assessment of the follow-up: 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

A. Violation of Article 7§7

The Committee considered that the young person on apprenticeship contacts are excluded from the scope of the labour legislation and are not entitled to three weeks' annual holiday with pay. Therefore, the Committee held that there was a violation of Article 7§7 of the 1961 Charter.

B. Violation of Article 12§3

The Committee considered that the highly limited protection against social and economic risks afforded to minors engaged in 'special apprenticeship contracts' under Section 74§9 of Law 3863/2010 had the practical effect of establishing a distinct category of workers who were effectively excluded from the general range of protection offered by the social security system at large and that this represented a deterioration of the social security scheme which did not fulfil the criteria to be compatible with Article 12§3 of the 1961 Charter.

The Committee thus considered that there is a violation of Article 12§3 of the 1961 Charter.

2. Information provided by the Government

A. Violation of Article 7§7

The Government states that no amendments have been made to the provisions of Section 74 §9 of Law 3863/2010 on the social security protection of minors who conclude special apprenticeship contracts.

B. Violation of Article 12§3

The Government indicates that there have been no developments concerning Section 74§9 of Law 3863/2010.

3. Assessment of the follow-up

A. Violation of Article 7§7

The Committee recalls that in its Findings 2020 the Committee considered that in the light of the fact that the provision of Section 74§9 of Law 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, was still in force, the situation has not been brought into conformity with the Charter.

In the absence of any new developments, the Committee considers that the situation has not been brought into conformity with the Charter.

B. Violation of Article 12§3

Article 12§3 requires States Parties to “endeavour to raise progressively the system of social security to a higher leve”’. In this respect, the Committee recognises that it may be necessary to introduce measures to consolidate public finances in times of economic crisis, in order to ensure the maintenance and sustainability of the existing social security system.

In its Findings 2020, the Committee considered that in the absence of any developments in this regard, the situation has not been brought into conformity with the Charter.

In the absence of any new information in this regard, the Committee considers that the situation has not been brought into conformity with the Charter.

4th Assessment of the follow-up: 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

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.

2. Information provided by the Government

The Government provides updated information further to its submission in the 3rd Simplified report. According to the Government, the 1st Review of the River Basin Management Plan, Water District, Eastern Central Greece established a programme of measures, prepared upon the requirements and specifications of the Directive 2000/60/EC (O.G. 4673/8/2017), after which no new measures have been adopted. The 2nd Review of the River Basin Management Plan is expected during which the programme of measures implementation will be evaluated, reviewed and revised.

According to the Government, in 2019 Southern Greece Inspectorate - Department of Environmental Inspection conducted on-the-spot inspections in four activities located in the area adjacent to the Asopos River, for compliance with the current environmental legislation and the approved environmental terms. These inspections revealed violations in two activities, for which Certifications of Violations were issued and sent to the competent Prosecutor for investigation of any criminal liability. At the same time, the competent service suggested the imposition of administrative sanctions. An on-the-spot inspection was also performed on 10 activities which dispose their waste waters in the Asopos River, for sampling and verification of compliance with emission limit values laid down in Annex B to the No.20488/2010 Joint Ministerial Decision. The results obtained from those random checks showed that two activities had exceeded emission limit values and thus they were included in the scheduling of regular inspections. In 2020, five regular inspections were conducted in activities located in the area, while a relative number of samplings have not been scheduled due to the measures taken to combat the pandemic.

According to the Government, the results of the inspections carried out in the area of Asopos River (Oinofyta and Schimatari), in the context of enterprise licensing have shown that all units that used underground wastewater disposal systems have now complied with the law and none of them is disposing its wastewater to an impermeable or absorbent well.

As regards strengthening human resources of strengthen of the Environmental Inspectorate, according to the Government, in 2020 four new employees have been posted as Environmental Inspectors.

The report states that in December 2020 the new Directive (EU) 2020/2184 of the European Parliament and the Council of 16 December 2020 on the quality of water intended for human consumption was issued. The deadline for the Directive's transposition into national law is 12/1/2023. In Part B of Annex I to the (b) relative ("Chemical Parameters"), the parametric value of the (total) chromium was set at 25 μg/l. In accordance with the said Directive, this value is to be reached on 12 January 2036 at the latest.

The Government states that all industries have complied with the provisions of JMD No. 20448/2010, either by improving their wastewater treatment systems or by changing their

wastewater management method. Nevertheless, the Region of Sterea Ellada, through the Boeotia KEPPE, systematically carries out inspections on industries located in the Asopos River area and applies the law when violations are identified, i.e. it either imposes a fine or proposes to the licensing authority the temporary cessation of activities or closure of the undertaking.

Moreover, the Region of Sterea Ellada:

- has undertaken initiatives and implements projects in order to solve the problem of waste treatment in general, either by constructing a central unit or by means of any other relevant project it may choose, account taking the relevant studies.
- has taken all adequate measures for the rehabilitation of disturbed ecosystem, including inter alia the Presidential Decree under article 23 of Law 1650/1986, that provides for special environmental aid zones and production activities development zones, by including environmental recovery, through the special program for Asopos River pollution response, also in the Regional Framework for Spatial Planning and Sustainable Development «Approving Revision of Regional Spatial Framework for the Region of Sterea Ellada and its Environmental Approval» (O.G. 299/AAn/2018).

As regards the quality of drinking water, it is subject to continuous tests, exceeding those set by legislation. The results are available on the official website of the Municipality, sent to the Municipal Units' offices, whereas citizens are informed by any other means deemed appropriate. In addition, the Department of Environment and Civil Protection of the Municipality has included in all drinking water analysis the measurement of total chromium and hexavalent chromium emissions, although there is practically no cause for concern arising from the water source. As concerns the water intended for agricultural use, there are no recent data leading to firm conclusions. According to a research conducted by the Coordination Office for the Remediation of Environmental Damage (SYGAPEZ), via a number of exploratory drillings, the pollution is largely detected in the upper aquifer, i.e. at shallow water sampling points.

Finally, the Department of Environment and Civil protection of the Municipality estimates that the local salinization problems observed are due to anthropogenic and not geological causes. The most recent samplings in the Asopos river surface water took place on 11/8/2017, 13/6/2018, 22/11/2018 and 30/10/2019 while in 2021 another sampling will take place. The results of the year 2019 show that the problem at the Mailis location is resolved. Specifically, while concentrations at the Mailis pipeline were high, possibly due to the rainwater flow that has dissolved buried toxic waste, at a point downstream concentrations of chromium (total and hexavalent) were low. This indicates that the location's pollution is no longer diffused throughout the natural recipient. Elsewhere in the Asopos river, concentrations in chromium and organic load have been detected at intervals outside the limit values, a fact however that was not observed in 2019 measurement. The Department of Environment and Civil Protection of the Municipality estimates that the reason for these high concentrations is the non-continuous release of pollutant loads. The Municipality of Tanagra, via the competent Department of Environment, extensively informs the jointly responsible bodies (Ministry of Environment, Decentralized Administration of Thessaly, Central Greece, Region of Central Greece) both for the results of the tests in the Asopos surface water and in pipelines discharging into it, as well as for the scientific conclusions resulting from the above measurements. The Department of Environment of the Municipality of Tanagra continues to cooperate with SYGAPEZ for the current programme, whereas in the future, it will cooperate with the bodies, Universities and researchers carrying out similar studies and operations of environmental interest.

The Municipality of Tanagra in cooperation with the Region of Sterea Ellada has submitted a request for funding to the Operational Programme Central Greece 2014-2020 of the Asopos Catchment Basin Integrated Territorial Investment (ITI). The completion of the above action

which consists of several sub-programmes is expected to solve the region's environmental problem. The Municipality of Tanagra recognises the importance of enhancing the competent inspection bodies for carrying out environmental checks and inspections with scientific staff in order to optimally cover the companies operating in the area and disseminate the inspection results. Finally, the Municipality of Tanagra, via the competent Department of Environment, examines in the first phase and then forwards any complaints filed by residents on environmental issues and generally takes appropriate action on a case-by-case basis to address the problems that arise.

3. Assessment of the follow-up

The Committee recalls that in its decision it considered that the violation of Article 11§§1 and 3 of the Charter was due to deficiencies in the implementation of existing regulations and programmes regarding the pollution of Asopos River and its negative effects on health.

In its Findings (2020) the Committee found that the legislative establishment of a threshold for Cr-6 in drinking water and the standardisation of the Cr-6 analysis has not been completed. Moreover, it found that it had not been demonstrated that measures taken with a view to reducing the negative effects on health that result from the pollution of Asopos River, were carried out within a reasonable timeframe and with the maximum use of available resources, both human and financial. Moreover, the Government had not shown that there had been a measurable progress. The Committee therefore considered that the situation had not been brought into conformity with Article 11§§ 1 and 3 of the Charter.

The Committee now notes that in the course of the year 2020 the Government has continued to take measures, in particular as regards transposition of the European Parliament Directives, which set the chromium level at 25mg, which should be achieved by 2023. The Committee also notes that the sampling of the Asopos river water has continued. As regards human resources, the Committee takes note of the posting of four Environmental Inspectors.

The Committee considers that the measures taken represent progress. However, the Committee still considers that it has not been demonstrated that the 2014-2020 Operation Programme Central Greece or other measures taken have contributed to solving environmental problems and especially the negative effects of pollution of Asopos River on health. The Committee asks the next report to demonstrate any measurable progress that has been achieved in this regard.

Therefore, the Committee considers that the situation has not yet been brought into conformity with Article 11§§1 and 3 of the Charter.

4th Assessment of the follow-up:

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. Decision of the Committee on the merits of the complaint

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 in question. The cumulative effect of the restrictions, as referred to by the complainant trade union, and which was 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

The Government states that it reserves the right to express its position until the adoption of a decision by the European Committee of Social Rights in Panhellenic Association of Pensioners of the OTE Group Telecommunications v. Greece, Complaint No. 165/2018.

3. Assessment of the follow-up

The Committee recalls that in its Findings (2015) the Committee found that the situation had not been brought into conformity with the 1961 Charter, as the restrictive measures at issue, introduced in 2010-2012, were still in force.

In its conclusion on Article 12§3 in respect of Greece (Conclusions 2017) the Committee pointed out that in order to assess their scope in relation to Article 12§3 and thus assess whether they involve improvements to the system or restrictions, it must be informed of their impact (categories and numbers of people concerned, levels of allowances before and after alteration). The report also refers to certain measures adopted outside the reference period, such as the extension of healthcare in 2016. The Committee asked the next report to provide information on the implementation and impact of these measures, as well as of the steps taken to identify and moderate the possible negative impact of restrictive measures as regards the scope and level of the social security benefits.

In its Findings 2018 and 2020 the Committee reserved its position until a decision is taken in Panhellenic Association of Pensioners of the OTE Group Telecommunications v. Greece, Complaint No. 165/2018, 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.

The Committee again reserves its position concerning the follow-up to these decisions pending its decision in Panhellenic Association of Pensioners of the OTE Group Telecommunications v. Greece, Complaint No. 165/2018.

2nd assessment of the follow-up: Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, decision on the merits of 23 March 2017, Resolution CM/ResChS(2018)12

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

A. Violation of Article 2§1

The Committee held that there was a violation of Article 2§1 of the Charter on the grounds of:

1) the excessive length of weekly work authorised; and
2) the lack of sufficient collective bargaining guarantees.

B. Violation of Article 4§1

The Committee held that there was a violation of Article 4§1 of the 1961 Charter on the ground that fair remuneration was not guaranteed. In particular, the Committee considered that the gross minimum wage including bonuses corresponds to approximately 46% of gross average wage.

C. Violation of Article 4§4

The Committee held that there was a violation of Article 4§4 of the 1961 Charter on the ground that the Section 17§5 of Law No. 3899/2010 did not make a 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.

D. Violation of Article 7§5

The Committee held that there was a violation of Article 7§5 of the 1961 Charter as the minimum wage of young workers aged 15 to18 years was not fair.

E. Violation of Article 7§7

The Committee held that the young persons concerned were excluded from the scope of the labour legislation and are not entitled to three weeks' annual holiday with pay. Therefore, the Committee held that there was a violation of Article 7§7 of the Charter.

F. Violation of Article 3 of the Additional Protocol to the 1961 Charter

The Committee held that there was a violation of Article 3 of the 1988 Additional Protocol to the 1961 Charter due to the fact that the previously applicable collective bargaining system was abolished and the effective exercise of the right of workers to participate in the determination and improvement of working conditions was not ensured.

2. Information provided by the Government

A. Violation of Article 2§1

The Government states that there have been no amendments to the provisions concerning working time. By virtue of Article 59 of Law 4635/2019, paragraph 11 of Law 3899/2010 now states that if work is provided beyond the agreed working time, the part-time employee is entitled to a corresponding remuneration with an increase of 12% on the agreed remuneration for each additional working hour provided.

B. Violation of Article 4§1

The Government states that due to the pandemic, the first stage of the minimum wage setting process was interrupted and postponed to March 2021.

C. Violation of Article 4§4

The Government states that there have been no legislative or other developments as regards the issue under consideration (a reasonable period of notice before the termination of employment).

D. Violation of Article 7§5

The Government stated that as regards measures taken in order to protect working children and young persons and safeguard their right to a fair wage, the readjustment of minimum wage and salary that are in force and the abolition of age discrimination as of 01/02/2019 have increased the rate paid to apprentices, in accordance with Article 7 paragraph A of Decision No 26385/2017 of the Ministers of Economy and Development, of Education, Research and Religious Affairs, of Labour, Social Security and Social Solidarity and of Finance on "Quality Framework for Apprenticeships" (B'491). This rate is now set at 75% of the minimum wage and amounts to €21.78 per day of apprenticeship training carried out at the workplace.

Moreover, Section 52 of Law 4611/2019 (A'73) stipulates that as of 01/07/2019, where provision is made for rates and social security contributions for apprentice students who undertake an internship or apprenticeship in private sector enterprises, these shall be paid by the enterprises into payment accounts and shall be transferred by the relevant payment service provider to the accounts of the above beneficiaries and Social Security Funds respectively. This provision establishes the same obligation both for interns and apprentices, in order to facilitate inspections on compliance with both the legislation on internships and apprenticeships and the terms of the relevant apprenticeship contract concluded between the parties. Furthermore, according to the Government, this provision helps eliminate infringements of the law on internships and apprenticeships, thus, upgrading the institution and improving students' working terms and conditions.

E. Violation of Article 7§7

The Government states that no amendments have been made to the provisions of Section 74 of Law 3863/2010 on the social security protection of minors who conclude special apprenticeship contracts.

F. Violation of Article 3 of the Additional Protocol to the 1961 Charter

The Government indicated that every single worker in all enterprises even in those where there are no unions or works councils, has the right to take part in the improvement of working conditions, either through their selected representatives having special responsibility for issues relating to workers health and safety, or directly on their own initiative. Consequently, according to the national legislation and practice, all workers are covered by Article 3 of the Additional Protocol. Moreover, no change has occurred in the legal framework applying to workers in public services and public bodies as regards their right to take part in the determination and improvement of their working conditions and environment described in P.D.17/1996 and Sections 2 and 3 of Law 2738/1999, according to which health and safety measures are the subject of collective bargaining and are specified in labour collective agreements.

3. Assessment of the follow-up

A. Violation of Article 2§1

In its decision on the merits the Committee observed that Greece had transposed the EU working time directive (Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time), providing for an upper limit of 48 hours per week, including overtime, on average calculated over a four-month reference period. However, the Committee considered that this rule did not preclude working time longer than 48 hours in individual weeks during the reference period. It followed that even assuming that a weekly rest day is systematically granted, the employees concerned could be required to work up to 78 hours per week.

The Committee notes from the information provided by the Government that there have been no changes to this situation and therefore, considers that the situation has not been brought into conformity as regards excessive length of working time.

As regards collective bargaining guarantees, in its decision the Committee recalled that in order to be considered to be in conformity with the Charter, domestic law and regulations must also operate within a precise legal framework which clearly delimits the scope left to employers and employees to modify, by collective agreement, working time. It considered that the law itself did not define the scope available to the negotiating parties. Moreover, the national collective agreements which alone determined the arrangements in this field had been terminated in application, inter alia, of the Council of Ministers Act No. 6/2012.

The Committee notes from the information provided by the Government that the validity of the National General Labour Collective Agreement was extended until the end of 2019. The Committee considers that it has not been demonstrated by the Government that the agreements, either collective or concluded at the company level, in practice always ensure that the maximum weekly working time is respected. The Committee asks the next report to indicate how it is ensured that the workers have sufficient collective bargaining guarantees to protect them against excessive weekly working time.

In conclusion, the Committee considers that the situation has not been brought into conformity on both counts.

B. Violation of Article 4§1

The Committee recalls that to be considered fair within the meaning of Article 4§1, the minimum or lowest net remuneration or wage paid in the labour market must not fall below 60% of the net average wage. The Committee's assessment is based on net amounts, i.e. after deduction of taxes and social security contributions. Where net figures are difficult to establish, it is for the States Parties concerned to conduct the needed enquiries or to provide estimates.

In its decision the Committee observed that the gross minimum wage including bonuses corresponded to approximately 46% of gross average wage, which is below the threshold established by the Committee. Therefore, the Committee considered that there was a violation of Article 4§1 of the Charter as fair remuneration was not guaranteed.

The Committee notes that the report does not provide information about the net value of the minimum wage for 2020. The Committee notes from Eurostat (http://appsso.eurostat.ec.europa.eu/nui/show.do?wai=true&dataset=earn_nt_net) that in 2020, the net earning of a single person earning 100% of average wage stood at € 15,762 per year or € 1,313 per month. However, as the Government does not provide the information

concerning the values of the minimum wage after deduction of social security contributions and income tax, the Committee considers that it has not been demonstrated that fair remuneration is guaranteed.

Therefore, the situation has not been brought into conformity with the Charter.

C. Violation of Article 4§4

The Committee considers that the in the absence of any legislative developments, the situation has not been brought into conformity with Article 4§4 of the Charter.

D. Violation of Article 7§5

In its decision the Committee considered that in view of its decision on Article 4§1 of the 1961 Charter and in view of the extent to which this minimum wage falls below the established threshold for adult workers, the wage paid to workers aged 15-18 was not fair in the meaning of Article 7§5 of the 1961 Charter either.

The Committee refers to its conclusion on Article 7§5 (Conclusions 2019) where it considered that any difference between young workers' and adult workers' wages must be reasonable and the gap must close quickly. For 15/16-year-olds, a wage of 30% lower than the adult starting wage is acceptable. For 16/18-year-olds, the difference may not exceed 20%. The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair.

The Committee notes from the information submitted by the Government that the wage of young workers and apprentices is now set at 75% of the minimum wage. However, given that the Committee has considered that the reference wage is not fair, the wage paid to workers aged 15-18 cannot be considered fair either. Therefore, the Committee considers that the situation has not been brought into conformity with the Charter.

E. Violation of Article 7§7

The Committee refers to its assessment of the follow-up in GENOP-DEI/ADEDY v. Greece, Complaint No. 66/2011, decision on the merits of 23 May 2012 where it considered that the provision of Section 74§9 of Law 3863/2010, according to which apprentices with the exception of provisions on the health and safety of workers, were not subject to the labour law provisions, was still into force. According to this legislation the apprentices were not entitled to a three weeks' annual holiday with pay within the one year of their special apprenticeship contract.

The Committee considers that in the light of the fact that the provision of Section 74§9 of Law 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 in force, the situation has not been brought into conformity with the Charter.

F. Violation of Article 3 of the Additional Protocol to the 1961 Charter

The Committee recalls that in its decision it concluded that there was a violation of Article 3 of the 1988 Additional Protocol to the 1961 Charter (Article 22 of the Revised Charter by which Greece is now bound) as even if, as a result of the reforms carried out, there is no longer any general legislative framework or branch-level collective bargaining in Greece which could be deemed to provide a general framework for labour relations, it was not possible to examine the GSEE's allegations relating to collective bargaining in general and, in particular, the way

in which such bargaining can deal with specific matters (wage fixing, arbitration, extension of collective agreements), since these matters fall within the scope of Articles 5 and 6 of the 1961 Charter which Greece had not accepted at the time of registration of the present complaint.

As regards the determination and improvement of the working conditions, work organisation and working environment, the Committee recalls that Article 3 of the 1988 Additional Protocol obliges States to ensure that procedures other than those referred to in Articles 5 and 6 are implemented with a view to ensuring the effective exercise of the right of workers to participate in the determination and improvement of working conditions. The Committee notes in this respect that the Government has not demonstrated that the measures have been adopted or encouraged enabling workers or their representatives, in accordance with national legislation and practice, to contribute to the determination and the improvement of the working conditions. Therefore, the Committee considers that the situation has not been brought into conformity with Article 3 of the Additional Protocol (Article 22 of the Revised Charter by which Greece is now bound).

IRELAND

3rd Assessment of the follow-up: European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on admissibility and the merits of 2 December 2013, Resolution CM/ResChS(2014)12

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

The European Committee of Social Rights concluded that there was a violation of:

A. 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.
B. Article 6§2 of the Charter on the ground that the police representative associations were not provided with a means to effectively represent their members in all matters concerning their material and moral interests.
C. Article 6§4 of the Charter on the ground that the domestic legislation amounted to a complete abolition of the right to strike as far as the police is concerned.

2. Information provided by the Government

The report recalls the information indicated already in the previous reports in 2017 as well as in 2019.

A. *As regards the violation of Article 5 of the Charter concerning 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.*

The report refers to new developments introduced in 2020. The Industrial Relations (Amendment) Act 2019 entered into force on 1 February 2020. This legislation provides that An Garda Síochána members have, from that date, access through their Representative Associations to the services of the Workplace Relations Commission (WRC) and the Labour Court to facilitate resolution of collective matters, and to assist in resolving any industrial relations disputes that might arise.

In parallel, the new internal Garda dispute resolution mechanisms have been implemented and are supporting ongoing engagement between Garda management and the representative associations on relevant industrial relations issues. Engagement also continues in relation to ongoing appointment and training of specialist staff and the role of the WRC in the Garda internal Industrial Relations forums. The management of industrial relations in An Garda Síochána now comes under the direct remit of the Garda Commissioner. The Garda representative bodies continue to have full and equal access to national public service pay negotiations.

B. *As regards the violation of Article 6§2 of the Charter on the ground that the police representative associations were not provided with a means to effectively represent their members in all matters concerning their material and moral interests*

No new information is submitted.

C. *As regards the violation of Article 6§4 of the Charter on the ground that the domestic legislation amounted to a complete abolition of the right to strike as far as the police is concerned*

No new information is submitted.

3. Comments by the Irish Human Rights and Equality Commission

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.

In a submission registered in June 2021, it provides comments on the Government's follow up given to the Committee's decision, based on what was submitted in 2020.

A. *As regards the violation of Article 5 of the Charter concerning 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.*

The Commission welcomed the measures adopted and mainly the reviews conducted by the State into the operation of industrial relations within An Garda Síochána, which led the State to permit Garda Associations to take part in national public service pay negotiations. However, it recalled that the Committee in its Findings 2020 stated that the State had not brought the situation into conformity with Article 5 of the Charter

B. *As regards the violation of Article 6§2 of the Charter on the ground that the police representative associations were not provided with a means to effectively represent their members in all matters concerning their material and moral interests*

The Commission noted that the Committee in its Findings 2020 stated that the State had not brought the situation into conformity with Article 6§2, called to bring the current legislative framework and practice into conformity with the Charter.

C. *As regards the violation of Article 6§4 of the Charter on the ground that the domestic legislation amounted to a complete abolition of the right to strike as far as the police is concerned*

As regards Article 6§4 of the Charter, the Commission recalled that the State had not brought the situation into conformity with the Charter, as it is failing to address the abolition of the right to strike and therefore reiterated its call on the State, as in its 2020 report, to remove the complete prohibition on members of An Garda Síochána's right to strike.

4. Assessment of the follow-up

The Committee takes note of the measures described, which continue the positive progress noted in Findings 2020.

A. *As regards the violation of Article 5 of the Charter concerning 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.*

The Committee notes that the legislative changes announced in 2019 are being implemented and continue to be developed. The reviews conducted by the State into the operation of industrial relations within *An Garda Síochána* have led to the State permitting Garda Associations to take part in national public service pay negotiations. The State has also

enshrined in legislation Garda Associations access to the Work Place Relations Commission and the Labour Court.

The Committee takes note that, although implementation of the legislation is still an ongoing process, it allows *An Garda Síochána* to participate in national public service pay negotiations. Therefore, the situation is now compatible with Article 5 of the Charter.

B. *As regards the violation of Article 6§2 of the Charter on the ground that the police representative associations were not provided with a means to effectively represent their members in all matters concerning their material and moral interests*

Concerning the violation of Article 6§2 of the Charter, no new information is submitted by the Government's report. However, in the light of the implementation of the legislation and the fact that Garda Associations can take part in national public service pay negotiations and also access the Workplace Relations Commission and the Labour Court, the Committee considers that the situation has been remedied in this respect.

C. *As regards the violation of article 6§4 of the Charter on the ground that the domestic legislation amounted to a complete abolition of the right to strike as far as the police is concerned*

As regards Article 6§4, the domestic legislation still provides for a complete prohibition of the right to strike as far as the police is concerned. Accordingly, the situation has not been remedied.

The Committee asks for information to be included in the next report on the development and implementation of all the measures needed to ensure that the police representative associations are provided with a means to effectively represent their members in all matters and also asks for information on the measures taken to address the prohibition of the right to strike.

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

3rd Assessment of the follow-up: European Roma Rights Center (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

In its decision, the Committee concluded that there was a violation of Article 16 of the Charter on the following grounds:

A. insufficient provision of accommodation for Travellers;

B. many Traveller sites are in an inadequate condition;

C. the Criminal Justice (Public Order) Act 1994 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;

D. the Housing (Miscellaneous Provisions) Act 1992 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;

E. evictions are carried out in practice without the necessary safeguards.

2. Information provided by the Government

The report refers to some information already reproduced in its 2019 submission (assessed under Findings 2020) and a number of new initiatives, which were taken since the submission of the report in 2019 in certain fields.

A. *On the insufficient Traveller accommodation*

The National Traveller Accommodation Consultative Committee (NTACC) made an Expert review report in July 2019 with 32 recommendations. They are comprehensive and wide ranging, from changes to procedure and policy, to changes to legislation. Delivery and implementation will involve several areas within the Department of Housing, Local Government and Heritage (DHLGH) as well as input from other Departments, local authorities and other external stakeholders. Due to the number of stakeholders, input required and wide-ranging impacts of most of the recommendations in the report, a phased approach to implementation has been adopted.

During phase 1, meetings have taken place with subject matter expert Working Groups that were established within the Department and with other Government agencies and Departments. Stakeholders have been consulted giving them the opportunity to provide their comments on the report. During phase 2, a programme of projects to progress agreed recommendations is being established. The programme will drive the implementation of the Expert Group Report. Once a programme will be setup, a decision will be made agreeing which projects to take forward. During phase 3, projects will be established to implement the recommendations. Work on some of the projects has already commenced and will be progressed subject to Ministerial approval.

Funding for the provision of Traveller-specific accommodation continues to increase with €15.5 million being provided for Traveller-specific accommodation for 2021 (it was €14.5 million for 2020).

B. *Concerning the fact that many Traveller sites are in an inadequate condition;*

No specific information on new measures was submitted.

C. *On the Criminal Justice (Public Order) Act 1994 and eviction of Travellers*

Section 24 of the Housing (Miscellaneous Provisions) Act 2002 amended the Criminal Justice (Public Order) Act 1994 by insertions of Part 11A, Offences Relating to Entering and Occupying Land Without Consent. The report states that the legislation is of general application and does not discriminate against Travellers. The legislation concerns itself only with situations where the entry or occupation of land is likely to: cause damage to the land or substantially interfere with the land or its use of any amenity thereon: or, render the land or any amenity there unsafe or unsanitary. The legislation was not adopted for the purposes of harassing Travellers in genuine need of accommodation but, rather, emerged in response to problems with large- scale commercial trader encampments causing damage and interference to the land. As previously reported, this Act will also be looked at in light of the Expert Group recommendations.

D. *On Section 10 of the Housing (Miscellaneous Provisions) Act 1992 and inadequate safeguards for Travellers threatened with eviction;*

The report states that, while there is no statutory obligation to do so, in practice, local authorities seek to consult and negotiate with affected persons and families in advance of using legislative means. As previously reported this process will also be looked at in light of the Expert Group recommendations and consultation is currently ongoing with stakeholders in relation to evictions procedures.

E. *On evictions are carried out in practice without the necessary safeguards.*

The report refers to the information submitted under points C and D.

3. Comments by the Irish Human Rights and Equality Commission

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.

A. *On the insufficient Traveller accommodation*

In a submission registered in June 2020, the Commission provided detailed comments on the Government's follow up given to the Committee's decision. In its comments submitted in 2021, the Commission remained concerned that the State is not currently meeting the needs of Travellers who would prefer to live in culturally appropriate Traveller-specific accommodation, nor is it meeting the needs of Travellers who would prefer to live in other types of housing. In particular, the Commission is concerned that housing authorities continue to make offers of non-Traveller specific accommodation to families whose wish is for Traveller specific accommodation.

State authorities continue to state that Travellers prefer standard social housing to Traveller-specific accommodation. Standard social housing does not fall under the Traveller-specific accommodation budget. These submissions do not reflect past analysis and the longstanding views of Traveller groups of the need for the provision of culturally appropriate accommodation. In an investigation of May 2021, the Ombudsman for Children's Office ('OCO') found that the local authority failed to estimate and plan for the existing and future housing needs of Traveller families in its area across successive accommodation programmes, thereby falling short of the minimum requirements of the law.

Increasing reliance on private rental accommodation through State supports presents particular difficulties, with research demonstrating that Travellers can experience discrimination when trying to secure housing through the Housing Assistance Programme. With regard to social housing provision, Travellers can typically wait up to seven years to be accommodated due to the lack of availability of housing stock. There is also a shortage of social housing big enough to accommodate larger families. More than one in four Irish Traveller households has six or more persons, whereas only 4% of new social housing units in Dublin City Council and Cork City Council areas comprise four or more bedrooms. In its recent investigation on Traveller accommodation, the OCO found that the local authority's record keeping in relation to offers of social housing, and refusals or acceptance of same, lacked consistency, transparency and accountability. As a result, families may have been denied access to a home and/or prioritisation on the social housing list.

A Commission supported report of March 2021 (Mercy Law Resource Centre, Minority Groups and Housing Services: Barriers to Access) also highlights that the 'normal residency' requirement continues to disproportionately affect Traveller applicants for social housing due to their nomadic culture. Traveller organisations have reported a significant increase in the length of stay of young Traveller couples in homeless services in the last year. The Irish NGO, Focus Ireland, has highlighted in a statement issued on February 2021 that the persistent lack of data in respect of the Traveller community's experience of homelessness, including the specific needs, accommodation patterns and pathways into homelessness of Travellers.

The Commission further states that there have been well-documented issues relating to the drawdown of Traveller-specific accommodation funding by local authorities. As submitted in previous comments, there has been ample evidence of a consistent underspend of the Traveller-specific accommodation budget and the failure to provide agreed units identified in Traveller Accommodation Programmes. Arrangements for the disbursement of funding for the provision of Traveller specific accommodation changed in 2020. The Department has ceased the practice of allocating specific budgets to individual local authorities and it is instead open to all local authorities to apply for and draw down funds at any time throughout the year.

The Commission noted that this change in process coincided with the Department's capital budget of €14.5 million for Traveller Accommodation being drawn down in full in 2020 (in comparison, €8.65 million of the €13 million budget was drawn down in 2019, and €6.26 million of the €12 million budget was drawn down in 2018). The 2021 Traveller accommodation budget is €15.5 million and, as of 28 April 2021, €1.8 million had been drawn down by local authorities. The Commission welcomed the full drawdown of the Department's 2020 Traveller accommodation budget, but noted that almost one third of new units provided in 2020 were mobiles for self-isolation purposes, rather than secure and adequate housing that will meet the accommodation needs of Traveller families in the medium to long term. Furthermore, a number of local authorities drew down relatively small amounts of funding. Pavee Point Traveller and Roma Centre recently confirmed that the 2020 budget was spent on upgrades, maintenance of existing Traveller accommodation, and Covid-19 mitigation measures, with no new Traveller-specific accommodation provided.

Moreover, the Commission referred in its previous submission to the publication of the independent Traveller Accommodation Expert Group's report. It recognised the ongoing efforts to consider and progress the recommendations, but they have not yet been fully implemented. In line with the 'phased approach 'being adopted by the State, a Programme Board has been established to drive the implementation of the recommendations, but its first meeting only took place on 24 March 2021.

In June 2019, the Commission invited each of the 31 local authorities in the State to undertake a review of their provision of Traveller accommodation. The equality reviews focus on failures

nationally to draw down the ring-fenced capital budget to meet obligations on Traveller-specific accommodation. The local authorities were invited to conduct a review of the practices, procedures and other relevant factors in relation to the drawdown of capital funding and the provision of Traveller-specific accommodation services. It will publish accounts of these equality reviews in its 2020 Annual Report.

B. *On the fact that many Traveller sites are in an inadequate condition*

The Commission highlighted to the Committee on the Rights of the Child in 2020 that severe deficiencies in Traveller accommodation and the condition of existing sites impact on children's rights, including due to the lack of play areas for children and the existence of structural hazards. The recent investigation by the OCO into the living conditions of children on a local authority halting site found that there was a failure to consider the best interests of children, including those with additional needs, and to ensure that children living on the site enjoy a safe, suitable standard of accommodation, clear passage to school and recreational spaces. In particular, carelessness and undesirable administrative practice on the part of local authorities has resulted in overcrowding and serious risks on the site for children.

These living conditions, including the absence of consistent waste management and pest control, have also resulted in a violation of the right to health, with the child residents suffering skin conditions and respiratory problems at a much higher rate than the general population.

The Commission noted that more than 20 members of a Traveller family brought their case to the High Court in 2020 to challenge the alleged failure to provide them with long-term Traveller-appropriate accommodation. The family had been living in an unauthorised halting site for sixteen years without access to electricity or secure, permanent toilet amenities. In June 2021, the High Court ruled on an agreement between the family and the local authority that commits the local authority to making improvements to the site in the short term, including the provision of electricity and toilet facilities, and to applying for permission to build a new site nearby in the medium to long term.

The "persistent and deteriorating accommodation crisis" among Travellers has been greatly exacerbated by the current pandemic. While the Traveller community accounts for 0.7% of the general population, the evidence indicates that from 1 March 2020 to 27 February 2021, 13% of all Travellers, and 15.8% of those aged 18-64 years, have been infected with Covid-19; this compares with 4.4% and 5.4%, respectively, of the general population.

The Commission states that while additional Covid-19 related funding aims to mitigate the effects of the pandemic, it applies only to the emergency period and cannot be expected to address long-standing housing issues affecting the Traveller community. Local authorities are under no obligation to apply for Covid-19 related funding, and if they do, all requests are subject to final approval from the Department. It is concerned about the uneven implementation of Covid-19 measures across different local authority areas, and the reported lack of urgency given the gravity of the situation. In particular, the ongoing need for basic services such as electricity, sanitation units and water for Traveller families has been highlighted, as well as the failure by local authorities to adequately address overcrowding and to facilitate self-isolation.

C. *On the Criminal Justice (Public Order) Act 1994 and eviction of Travellers*

and

D. *On Section 10 of the Housing (Miscellaneous Provisions) Act 1992 and inadequate safeguards for Travellers threatened with eviction;*

As well as

E. *On evictions are carried out in practice without the necessary safeguards.*

The Commission recalled that the Expert Group raised concerns about the criminalisation of nomadism under the law governing trespass; the unrestricted and unmonitored use of Section 10 of the Housing (Miscellaneous Provisions) Act 1992 (as amended); and the lack of restrictions on evictions without the requirement to provide alternative accommodation to Traveller families who have been assessed by a local authority as in need of such accommodation and are awaiting its provision. The State report repeated its commitment to review the eviction process in light of the Expert Group recommendations but noting that a consultation is currently ongoing.

The Commission is concerned that there is insufficient evidence in the decisions of the Irish Courts that the fact that, typically, the moving party in eviction proceedings is the same local authority with statutory responsibility to meet the assessed accommodation need of members of the Traveller community is fully weighed. This is so even in the absence of other accommodation being available despite a protracted period on the housing list.

The European Court of Human Rights granted IHREC's request to intervene as a third-party intervener in the cases of *Faulkner v. Ireland and McDonagh v. Ireland* in December 2020. The Commission made written submissions in February 2021. The Applicants challenged Circuit Court orders under Section 160 of the Planning and Development Act 2000. The Applicants claimed that the court orders required them to leave an unauthorised site without due consideration of their right to respect for their home under Article 8§1 of the European Convention on Human Rights ('ECHR'), and that neither the local authority nor the domestic courts carried out any examination of the proportionality of this interference with their rights, in accordance with the requirements of Article 8§2 of the ECHR. They further claim that the domestic proceedings breached Article 6 of the ECHR, as they were conducted in undue haste and they were not legally represented.

The Commission reiterated its call on the State to address the chronic failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and the inadequate safeguards governing Traveller evictions in order to bring the situation into conformity with Article 16 of the Charter.

4. Assessment of the follow-up

A. *On the insufficient provision of accommodation for Travellers*

The Committee noted in its Findings 2020 that Ireland has made progress in the provision of accommodation for Travellers, access to housing and refurbishment of Traveller accommodation. However, despite this progress there is still a substantial shortfall in the provision of accommodation for Travellers. The main positive development was the creation of the Experts Group, but the recommendations which were adopted have not yet been fully implemented.

B. *On many Traveller sites are in an inadequate condition*

As indicated in the comments provided by the Irish Human Rights and Equality Commission, there is a chronic failure to provide sufficient accommodation for Travellers and there are inadequate conditions of existing Traveller sites.

C. *On the Criminal Justice (Public Order) Act 1994 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;*

and

D. *On the Housing (Miscellaneous Provisions) Act 1992 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;*

and

E. *On evictions are carried out in practice without the necessary safeguards.*

The Committee further refers to the detailed information submitted by the Commission in this respect, which reflects that there are inadequate safeguards governing Traveller evictions, both stemming from the legislation and from the practice. The Committee therefore asks for information in the next report on the adoption and implementation of all the measures envisaged in order to remedy the situation.

Meanwhile, the Committee finds that the situation has not yet been brought into conformity with Article 16 of the Charter.

3rd Assessment of the follow-up: International Federation for Human Rights (FIDH) v. Ireland (No. 110/2014), decision on the merits of 12 May 2017, Resolution CM/ResChS(2018)1

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

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

A. a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature.

B. persistent conditions like sewage invasions, contaminated water, dampness and mould went "to the core of what adequate housing means".

C. Although many local authority estates were ear-marked for regeneration in 2002, a significant number of regeneration programmes adopted by the Government for local authority had not been completed.

D. Finally, despite a large number of people remaining in substandard housing conditions, no complete statistics on the condition of local authority housing had been collected since 2002 by the Irish authorities. No national timetable existed for the refurbishment of local authority housing stock. For these reasons, the Committee found that the Government had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for not an insignificant number of families living in local authority housing, and therefore Ireland had violated Article 16 of the Charter.

2. Information provided by the Government

The report presents the same information already submitted in its 2019 report. It includes an appendix with updated information up to 2020 (see for more details the summary of the Government's submissions under Findings 2020).

A. *As regards the fact that a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature*

And

B. P*ersistent conditions like sewage invasions, contaminated water, dampness and mould went "to the core of what adequate housing means".*

The report states that Ireland is committed to ensuring that tenants in social housing are provided with adequate housing that meets the standards most recently laid down in the Housing (Standards for Rented Houses) Regulations 2019.

C. *Concerning the fact that a significant number of regeneration programmes adopted by the Government for local authority had not been completed.*

In relation to the regeneration programme and the specific areas mentioned in the original complaint, it is submitted to illustrate some specific developments since former year report that the project on Dolphin House is on hold pending resolution of issues with the Regeneration Board and Community and as a condition to engaging in consultation on the overall masterplan for Dolphin House. Concerning Pearse House, no funding submission has

yet been submitted to the Department by Dublin City Council. In St. Teresa's Gardens, 54 units were under construction and due for completion in December 2020. Other areas under the regeneration program are continuing their development.

D. *As regards the lack of complete statistics and of a national timetable*, the report does not submit further specific information.

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

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.

In a submission registered in June 2021, it provides comments on the Government's follow-up to the Committee's decision. Referring to its 2020 comments, it highlighted several issues.

A. *As regards the fact that a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature*

The Commission referred to the inadequate access to social housing in Ireland, as well as the State's slow progress in responding to the housing crisis, the lack of access to housing and housing support for minority and vulnerable groups, and the rise of family homelessness. The Commission repeats its position that adequate social housing must be provided by a State to meet its human rights obligations.

In 2020, the European Commission noted that housing affordability constraints are particularly acute for low-income households in Ireland, with increasing property prices and rental inflation. Although the number of households on social housing waiting lists has reduced in the last few years, there is still a significant level of need for housing support. There are concerns about the discriminatory barriers that minority groups can face in accessing the social housing list, and the frequent long delays in determining applications from such applicants. The report of March 2021 of the Mercy Law Resource Centre, Minority Groups and Housing Services: Barriers to Access, demonstrates that the inflexible application of Departmental Housing Circular 41/2012115 has led to EU and EEA nationals being excluded from the social housing list without legal justification. The content of the Circular also fails to provide accurate and sufficient guidance to housing authorities on how to process social housing claims by non-Irish nationals because it is out of date and does not cover all immigration categories.

B. *As regards persistent conditions like sewage invasions, contaminated water, dampness and mould went "to the core of what adequate housing means".*

In relation to the conditions of social housing, despite the Government's introduction of Regulation, S.I. No. 137 of 2019, which updated the minimum standards for rental accommodation that local authorities are required to adhere to in respect of social housing, CAN and NUI Galway reported ongoing problems with the conditions within local housing supply. In particular, a 2020 monitoring survey found a significant number of local authority households continue to reside in poor housing conditions. As reflected in the survey, direct evidence of tenants, architects and engineers identified persistent issues with mould, dampness and sewage invasions, indicating local housing conditions continue to be unsafe and unhealthy for many of the respondents. Raw sewage flooding, extreme mould and dampness, rat infestations, and dangerous electrics have also recently been reported in a public housing complex in Dublin. Furthermore, unlike private renters who have access to low-cost dispute resolution mechanisms, the majority of social housing tenants do not have any

legally enforceable rights to ensure the enforcement of these standards, creating a significant gap in the legal framework and access to effective legal remedies.

With regard to maintenance and repair work to address the inadequate conditions, remains concerned over the extent to which local authorities engage in preventative maintenance in practice, despite the State's commitment under the national plan, Rebuilding Ireland, for all local authorities to adopt a preventative maintenance approach to housing stock management by the end of 2016. The Government recently stated that the transition to a planned maintenance approach will require the completion of stock condition surveys of approximately 140,000 social homes in local authority ownership. This is only scheduled to commence in late 2021 and the target is for it to be completed over a four-to-five-year timespan.

The Commission highlighted the inadequate access to social housing as well as the State's slow progress in responding to the housing crisis, lack of access to housing and housing support for minority and vulnerable groups, and the rise of family homelessness.

C. *Concerning the fact that a significant number of regeneration programmes adopted by the Government for local authority had not been completed.*

And

D. *As regards the lack of complete statistics and of a national timetable*.

The Commission had previously highlighted its concerns with the slow progress of the State in dealing with the housing and homelessness crisis, At the end of 2020, social housing delivery had reached just over 70% of the original target, with the Minister for Housing, Local Government and Heritage referencing the public health restrictions as the reason for the delays. However, the impact of Covid-19 measures on the supply of housing has been exacerbated by the long-standing failure of the State to address the significant gap between the demand for social housing and the available local authority housing stock. Overall, the incorporation of international corporate investors into Government social housing policies to meet the demand via the private market has faced strong criticism by housing advocates. The Commission is concerned that human rights accountability mechanisms can be weakened where the State delivers its public functions through non-State actors and calls for greater access to and availability of social housing for families, including low-income families and families with special housing needs such as people with disabilities.

The Commission highlighted in its previous report is concerned with the shift in the State's policy focus from the provision of secure and high-quality social housing to the provision of supported temporary accommodation such as family hubs and greater reliance on housing supports. In total, 61,880 households were assessed as qualifying for housing support as of 2 November 2020, of which 45.6% live in private rented housing.

Escalating rents, the shortage of suitable private rented accommodation, and insecurity of tenure underpin concerns about Housing Assistance Payment (HAP) as a viable social housing alternative, particularly due to the stress on families trying to source HAP accommodation in such a tight and competitive rental market.

The Commission has repeatedly expressed concern about the rise in family homelessness over the last number of years. As of March 2021, there were 913 families in homeless services in Ireland, including 1,334 adults and 2,166 dependents.

As of February 2021, there were 35 operational family hubs nationally to meet emergency accommodation needs. Since the Commission latest comments to the Committee in 2020,

ongoing concerns have been raised about the wide variation in standards of family hubs, the restrictions imposed on family life and the use of surveillance, the absence of appropriate facilities and space, limitations on cooking and laundry facilities, and the poor attitude and expertise of staff.

In response to the most fundamental societal challenges stated, an explicit human rights and equality-based approach must be taken. The emergency measures adopted in 2020 to prevent homelessness demonstrate that State action is both possible and effective. The Commission therefore calls on the State to take sufficient and timely measures to ensure the right to housing of an adequate standard, with regard to habitability and access to essential services, for families living in local authority housing; and to provide a sufficient supply of adequate housing for vulnerable families in order to bring the situation into conformity with Article 16 of the Charter.

4. Comments provided by the Community Action Network and Centre for Housing Law, Rights and Policy Research, NUI Galway

The Community Action Network (CAN) is a social justice NGO dedicated to working with communities to create a more equal, more just society. The Centre for Housing Law, Rights and Policy Research, NUI Galway (CHLRP) is a research centre in National University of Ireland, Galway.

In a submission registered in June 2021, both provided comments on the Government's follow up to the Committee's decision.

They state firstly that the Government has an inadequate engagement with the national reporting mechanism, as the 18th National Report contains pages of text that appear to be copied word for word from the 17th National Report. They submit that there has been insufficient progress in bringing the situation into conformity with the Charter and draw particular attention to several points.

A. *As regards the fact that a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature*

The legal framework is, according to the submission insufficient, and this is particularly apparent in the S.I. No. 137 of 2019, which follows the previous approach and creates a lower standard for local authority tenants and approved housing body tenants than private sector tenants. To illustrate this issue, the report refers to an Environmental Conditions survey of tenants experiences of local authority housing conditions in the Oliver Bond House complex in Dublin. The survey was carried out on 11 March 2021 by Robert Emmet Community Development Project (CDP) and the completion rate of the survey was 47%. Of those that completed the survey, nearly two-thirds of households reported not having a suitable place to dry laundry. The poor housing conditions in the Oliver Bond House complex are not an isolated example and these problems affect significant numbers of households living in local authority housing. This specific failure is symptomatic of the wider insufficiency of the legal framework for the right to housing for families in Ireland. There is no enforceable right to adequate housing for families in Irish law. There is no remedy for a family denied such housing against a local authority or State body. Currently, there is no sufficient legal framework to grant the right to housing for families in Ireland.

B. *As regards persistent conditions like sewage invasions, contaminated water, dampness and mould went "to the core of what adequate housing means".*

The Government has not fulfilled its obligation in providing adequate management and maintenance of local authority housing. The right to adequate housing for families living in local authority housing, requires the Government to take seriously their responsibilities for management and maintenance and make the relevant cost reasonable and transparent, and the relevant information accessible. The Irish government has not fulfilled its obligation in several respects. This is apparent in the unsatisfactory management and maintenance issues for tenants. Tenants report having to wait for long periods for basic repairs including repairs to electrics, boilers, broken windows and doors. Tenants often give up on the landlord attending to issues and pay out for repairs from their own resources. One issue that is particularly frustrating for tenants is the absence of any suitable appointment system for attending to repairs.

Moreover, the Government has not fulfilled its obligation in ensuring community safety for local authority housing tenants. A key aspect of safety is security at home but this also extends to feeling safe in one's community. The CAN Collective Complaint monitoring survey in 2020 found that 68% of respondents reported problems with crime and anti-social behaviour and just 19% reported that their home/area had a safe place for kids to play. This indicates that the Government has not fulfilled its obligation in this respect.

There is no meaningful participation of all those affected in the design, implementation and monitoring of housing policies, programmes and strategies.

The State must develop and implement a rights-based tenant participation strategy that ensures effective local authority tenants' involvement in housing management decision making, policy formation, tenancy agreements, performance improvement, and community projects, at local, regional and national level.

Local authority housing tenants continue to live with inadequate housing standards. This is particularly apparent in the results of the CAN Collective Complaint monitoring survey 2020, which is consistent with recent research that shows how a number of the local housing estates have become some of the most deprived urban areas in Ireland. Environmental Conditions surveys of tenants' experiences of housing conditions were carried out the Oliver Bond House complex in Dublin on 11 March 2021. The completion rate of the survey was 47%. Of those that completed the survey, four out of five reported problems of mould and damp in their home, three out of five reported drafts or poor insulation and two-thirds reported problems with crime and antisocial behaviour.

C. *Concerning the fact that a significant number of regeneration programmes adopted by the Government for local authority had not been completed.*

And

D. *As regards the lack of complete statistics and of a national timetable*.

The NGO state that the Government report does not provide national statistics on the conditions of local (State) authority housing stock. The data referred to in this report give an indication of the poor housing conditions faced by households living in a significant number of local authority dwellings. While this data makes clear the failure to protect the human right to housing of families, the report reiterates that there is a general absence of meaningful national statistics on housing conditions in Ireland. The Government has recently outlined that it aims to commence stock condition surveys in Q4 2021. The Government indicated that these surveys will be "completed by local authorities over a 4/5-year timespan". Even if surveys are conducted within this 4/5-year timespan, this means that it would be almost a decade after the

Committee decision in FIDH v Ireland before concrete measures could be taken to address the substandard housing conditions at the heart of that Complaint.

There is no evidence that Ireland is considering a policy of facilitating meaningful tenant participation in addressing the problems for families in local authority housing. In Dublin, where the need for participation is most urgent given the estate renewal programme underway for flat/apartment complexes, there are no plans to facilitate tenant participation, notwithstanding the widespread concerns of tenants about the future of their homes. The Covid-19 pandemic has highlighted the lack of a national voice for local authority tenants. Many local authority tenants have faced lockdown in poor housing conditions but there has been no way for them to collectivise their experience.

Finally, there is no national timetable for the refurbishment of local authority housing stock. The NGOs state that the Government report does not contain a clear national timetable for the housing stock condition survey or for refurbishment of the substandard local authority housing stock. Despite the various measures referred to in the Government report, the Government has previously made clear the "first step" of addressing poor housing conditions was the carrying out of a nationwide stock condition survey of social housing. Therefore, in the absence of meaningful data on housing conditions means that measures outlined to address substandard housing conditions in the Government report cannot be regarded as concrete and effective.

A similar point is made concerning the 'regeneration programmes' detailed in the Government report. Although in recent years new regeneration programmes have subsequently been developed, not all of these have been completed, and there is no national plan for regeneration and no national tenant participation mechanism. The Government report does not provide any targets, a clear timeline or any action plan against which progress can be measured.

In summary, CAN and CHLRP submit that the 18th National Report simply repeats the exact same claims made in the 17th National Report. The recycling and repetition of material demonstrates the inadequate engagement of the Government with the National Reporting mechanism, but it also shows how the commitments contained in those reports are largely theoretical and cannot be regarded as practical and effective.

5. Assessment of the follow-up

A. *As regards the fact that a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature*

The Committee had previously found that Ireland has made progress in the adoption of measures to ensure an adequate standard of living in local authority housing. However, despite this progress there were still substantial limitations in providing adequate accommodation to a large number of families, who continue living in substandard local authority housing conditions. The situation is still not in conformity

B. *As regards persistent conditions like sewage invasions, contaminated water, dampness and mould went "to the core of what adequate housing means".*

The Committee further notes unsatisfactory management and maintenance issues in housing conditions for tenants, who do not often have safe houses. Tenants report long wating periods for basic repairs and poor housing conditions for number of local authority households. The Commission identified evidence provided by tenants, architects and engineers on persistent issues with mould, dampness and sewage invasions, rat infestations, etc.

C. *Concerning the fact that a significant number of regeneration programmes adopted by the Government for local authority had not been completed.*

And

D. *As regards the lack of complete statistics and of a national timetable*.

As indicated in the comments provided by the Irish Human Rights and Equality Commission and by CAN, the Government report does not state any specific progress since the last report submitted in 2020. The only updated information appears in the appendix and states that programs and projects continue to be implemented and there are regeneration programs and construction of new sites and houses. However, the legal framework for the right to housing for families in Ireland is still insufficient, local authority housing tenants continue to live with inadequate housing standards and there are no national statistics on the conditions of local authority housing stock.

The Committee asks for information on the adoption and implementation of all the measures envisaged in order to remedy the situation.

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

2nd Assessment of the follow-up: European Organisation of Military Associations (EUROMIL) v. Ireland (No. 112/2014), decision on the merits of 12 September 2017, Resolution CM/ResChS(2018)2

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

The European Committee of Social Rights concluded that there was a violation of Article 5 of the Charter on the grounds that the complete prohibition against military representative associations from joining national employees' organisations was not necessary and proportionate.
As regards Article 6§2 of the Charter, the Committee had also found a violation as military representative associations were unable to meaningfully participate in national pay agreement discussions. This was considered to be brought in conformity in Findings 2020, for which reason the follow-up was terminated in this respect.

2. Information provided by the Government

In respect of the finding of a violation of Article 5 of the Charter, the report does not submit any information.

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

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.
In a submission registered in June 2021, it provides comments on the Government's follow-up to the Committee's decision.

As regards Article 5 (the right to organise) of the Charter, the report states that PDFORRA (Permanent Defence Force Representative Associations), following its long-standing position of supporting an affiliation with ICTU, formally requested an associate membership with ICTU (Irish Congress of Trade Union) in July 2019, and ICTU has subsequently agreed in principle to accept PDFORRA as an associate member. PDFORRA has sought an association with ICTU to provide the best opportunity to secure advances in pay remuneration for its members as they will be collectively represented rather than excluded in national pay talks. PDFORRA has since then terminated initial discussions between Department of Defence management (civil and military) over the practicalities of forming an affiliation and initiated legal proceedings on 26 June 2020 in the High Court. While no update on the legal proceedings was available at the time of submission, the Commission recalls the written communication sent by the International Labour Organisation to the Government in January 2021 asserting that a blanket ban on affiliation with the ICTU was in breach of human rights.

The Commission also noted the Committee's finding in 2020 that military representative organisations are able to meaningfully participate in national pay discussions, compliant with Article 6§2 of the Charter, due to the de facto inclusion of PDFORRA in public service pay negotiations, alongside public sector trade unions, non-ICTU affiliated unions and representative bodies.

4. Comments provided by the European Organisation of Military Associations and Trade Unions (EUROMIL), on behalf of PDFORRA

EUROMIL, on behalf of PDFORRA, in a submission registered on 27 May 2021, provides comments on the Government's follow-up to the Committee's decision.

PDFORRA disagreed with the Findings 2020 on Article 6§2, as it states that PDFORRA was effectively excluded from the most recent national pay talks held in December 2020. No member of the non-affiliate groups is represented on the compliance mechanisms built into the recently proposed agreement. Months after the finalisation of the recently proposed agreement, PDFORRA and its membership have no clarity surrounding the quantum to be applied to the Defence Sector under the awards agreed between the Public Services Committee of ICTU and the Department of Public Expenditure and Reform.

Within the last year, a new Minister for Defence has been appointed and he has established a new Commission on the Future of Defence, which has within its remit the investigation of remuneration systems. The Programme for Government (PfG) provides for the establishment of a Pay Review Body, which he appears to be widely promoting. This proposed body is, as outlined in the Programme, purported to be established to deal with issues of pay of members of the Defence Forces while adhering to public sector pay policy. PDFORRA considers that this will entirely contravene Article 6§2 and place its members in a more perilous position in terms of collectively bargaining. Moreover, this body appears, from observations made, to be modelled on the British model, which was established prior to Britain joining the EU and which did not permit representation of armed forces personnel.

Arising from the public pronouncement of the foregoing, PDFORRA had no alternative but to initiate legal action through its domestic system.

5. Assessment of the follow-up

With respect to Article 5 of the Charter, the sole remaining aspect of the complaint to be assessed under this follow-up procedure, the Committee notes that Ireland has not removed the complete prohibition against military representative associations from joining national employees' organisations. There is no information submitted by the Government. Therefore, the situation has not been brough in conformity with Article 5 of the Charter.

ITALY

4th Assessment of the follow-up: European Roma Rights Centre (ERRC) v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, Resolution ResChS(2006)4

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

In its decision, the Committee found the following violations:

A. Violation of Article E taken together with Article 31§1 of the Charter

The Committee concluded that there was a violation of Article E taken in conjunction with Article 31§1 on account of the inadequate living conditions in camps or similar settlements for Roma who choose to follow an itinerant lifestyle or who are forced to do so (§12 of the decision). In particular, the Committee found that Italy failed to show that it had taken adequate steps to ensure that Roma are offered housing of a sufficient quantity and quality to meet their particular needs and that it had ensured or had taken steps to ensure that local authorities are fulfilling their responsibilities in this area (§37 of the decision).

B. Violation of Article E taken together with Article 31§2 of the Charter

The Committee concluded that there was a violation of Article E taken in conjunction with Article 31§2 on the grounds that Italy had failed to establish that the evictions procedures of Roma were adequate and had not provided credible evidence to refute the claims that Roma had suffered unjustified force during such evictions. As regards the adequacy of eviction procedures, the Committee recalled that evictions must be justified, carried out in conditions that respect the dignity of the persons concerned, and alternative accommodation should be available. Furthermore, eviction procedures must be established by the law, which must also specify 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, and provide compensation for illegal evictions (§41 of the decision).

C. Violation of Article E taken together with Articles 31§1 and 31§3 of the Charter

The Committee concluded that there was a violation of Article E taken in conjunction with Articles 31§1 and 31§3 because of the lack of permanent dwellings of an acceptable quality to meet the needs of Roma wishing to settle. The Committee found in particular that Italy had failed to provide any information to show that the right of access to social housing is effective in practice or that the criteria regulating access to social housing are not discriminatory. The Committee recalled in this respect that the principle of non-discrimination in Article E includes also indirect discrimination and considered that the failure to take into consideration the different situation of Roma or to introduce measures specifically aimed at improving their housing conditions, including the possibility for an effective access to social housing, meant that Italy was in violation of the Charter (§46 of the decision).

2. Information provided by the Government

A. Violation of Article E taken together with Article 31§1 of the Charter

In its report, registered on 4 March 2021, the Government updates and supplements the information previously provided concerning the National Strategy for the Inclusion of Roma, Sinti and Camminanti (RSC) for 2012-2020 and refers to the further initiatives taken by the National Office against Racial Discrimination (UNAR), in the framework of the National Operational Programme (NOP) Inclusion 2014-2020 funded by the European Social Fund.

The report explains that during the emergency crisis caused by Covid19 pandemic, the RSCs represented a particularly fragile group, especially in some camps characterised by a particular overcrowding and precarious hygienic sanitary conditions, in which some difficulties

in the distribution of essential goods have been registered. According to the report, during the emergency period, the inadequate housing conditions have made even more difficult the ordinary continuation and integration processes already started. The spread of Covid-19 and the consequent and necessary restrictive regulations have worsened some problems related to the survival of people living in camps or similar settlements affecting the most marginalised groups.

For these reasons, the public project Local Action Plans (PAL) promoted by UNAR aimed at realising "leading interventions for the creation of working groups and networks of stakeholders involved in different ways with RSC community in order to encourage the participation of Roma in a social, economic and civic life" became active in 8 metropolitan cities: Milan, Rome, Bari, Naples, Catania, Messina, Genoa and Cagliari. The project is realised in full coordination with the concerned municipalities, the associations present in the territories and in synergy with other actions already implemented by UNAR. In order to face the emergency situation, in addition to central activities included in the PAL project, a series of low-threshold interventions have been encouraged and carried out by distributing basic necessities (drinking water, food etc.), medical devices and providing information, awareness and support interventions to ensure access for vulnerable subjects to ordinary and extraordinary measures, activated at national level by municipalities and regions.

According to the report, in the framework of the statistical survey to monitor the transition of RSC communities from settlements to other forms of housing, tables to map the most vulnerable situations concerning Roma and Sinti families and families living in conditions of extreme marginalisation (families living in unauthorised camps for instance) as well as maps of families in the need of food, educational aids, products for children have been created (Milan). In addition, UNAR, in collaboration with the National Institute of Statistics, has adopted a survey concerning people belonging to RSC communities which have abandoned the so-called "camps" to move towards other forms of housing. From 2012 to 2020, 96 housing projects aimed at the transition to standard living quarters have been started in 42 cities.

The report also explains that UNAR, through its own project entrusted to the Research Institute on Population and Social Policies has created an Evaluation Plan for the RSC National Strategy 2012-2020 and many initiatives and concrete actions have been identified. According to the report, despite the difficulties encountered, efforts are constantly made at various levels to take effective action and to adopt different measures and solutions. In this connection, the report provides undated information on previously reported examples of good practices developed at local level, concerning measures taken to facilitate the transfer of households from camps to housing units. These good practices include, but are not limited to, the adoption of a project of construction of a reception centre (Campania), promotion of self-financed housing and other alternative housing solutions (Emilia-Romagna), authorisation of RSC communities to buy agricultural lands owned by the municipalities and to install mobile homes (Friuli Venezia-Giulia), financial support for families to rent an apartment (Latium) or their lodging in alternative accommodation following the dismantling of camps (Piedmont), granting of social housing (Tuscany), or the activation of projects of housing inclusion or alternatives to camps (caravan, camper) (Sardinia) etc.

Moreover, the report refers to several good practices in different regions and municipalities, in order to promote school attendance for minors to help the integration of RSC communities. Some municipalities have planned interventions of local services to avoid school dropout of RSC pupils and health and educational courses have been planned for each family (Municipality of Budrio); initiatives have been taken by some municipalities in Friuli Venezia-Giulia to fight early school leaving (through cultural mediators, after school activities etc.); school buses, social, sporting and cultural assistance service were made available (Sardinia); in some municipalities, initiatives are underway to provide elderly or disabled people with professional training to carry out a job activity (Castelfranco Veneto).

The report refers to a number of regional laws, projects and agreements, regional resolutions and memoranda signed at municipal level on the basis of which the above-mentioned measures have been taken in order to implement the national strategies for the integration and social inclusion of RSCs.

B. Violation of Article E taken together with Article 31§2 of the Charter

The report firstly refers to the circulars of 1 September and of 15 July 2019 which were mentioned in the previous report and which defined some guidelines to be followed when carrying out evictions. In addition to the information submitted in the previous report, the report explains that the guidelines contained in those circulars, although not referring exclusively to interventions against RSC, must be strictly observed under the control of the Ministry of Interior. The report specifies that under the guidelines, the eviction operations must be based on a fundamental principle which requires utmost respect for persons in fragile conditions and the protection of families in situation of economic and social hardship. Therefore, the evictions of RSC settlements by local administrations, which might be mandatory for justified reasons, must take place in compliance with human rights and the principle of non-discrimination.

The report informs that the UNAR Guidelines for local authorities concerning camp eviction procedures, which were referred to in the previous report, were not yet formally adopted. However, a consultation plenary meeting was launched in November 2019 and contributions on critical issues and proposals that can provide inspiration for the development of guidelines as part of the post-2020 strategy, have been obtained from 15 non-institutional stakeholders. Those stakeholders are all part of the National RSC Platform whose objective is the promotion and establishment of networks concerning the RSC communities.

The report refers to project proposals, made and monitored by UNAR, in order to overcome the issue of RSC settlements as places of isolation, physical and social deterioration. In this framework, the Local Action Plans, some of which have already been activated or approved through resolutions in eight metropolitan municipalities, envisages the development of methodologies and interventions about housing, which includes the issue of relocation of communities living in precarious or disadvantaged housing contexts. In addition, in 2018, UNAR has launched a two-year project (currently in progress) aimed at carrying out a qualitative and quantitative survey concerning the modalities through which people belonging to the RSC communities have abandoned the settlements and transferred to other forms of modern living. Moreover, the survey which is currently under preparation by the National Institute of Statistics, will provide data for local administrations on housing transitions (from settlements to ordinary homes).

The report points out that no data is currently available concerning specifically the number of forced evictions. However, it indicates that constant monitoring is guaranteed at the local level, both through the monitoring of the press and social networks and through constant meetings of National RSC Platform. A list of operations carried out most recently and those to be carried out is attached to the report.

C. Violation of Article E taken together with Articles 31§1 and 31§3 of the Charter

The housing policies taken in favour of RSC are described in the report in connection with the abovementioned information concerning the National Strategy for the Inclusion of RSC for 2012-2020 (see above). The report mentions examples of regions (Friuli Venezia-Giulia, Liguria, Lombardy, Marche, Piedmont, Sardinia, Tuscany) where social housing to RSC households were allocated or where projects are under way to this effect.

The report also provides details concerning the coordination activities of UNAR with local administrations on the RSC housing issue. Considering that RSC settlements are places of isolation and physical and relational degradation, UNAR has launched various projects and monitored the initiatives, still in progress, aimed at encouraging the advancement towards “non-mono-ethnic housing” methods. According to the report, these actions and initiatives

have been adopted on the basis of dialogue between various social actors involved in the problem and with the participation of RSC communities. In this respect, the report mentions a series of meetings organised with the participation of central administrations and the main Italian metropolitan cities in order to give a new impetus to local policies for the housing issue in large urban areas. The report also underlines that the Regional Action Plans (P.A.R.), launched by UNAR in 2020 aims at a greater coordination between central and local levels and at providing the regions with direct technical support and more effective access to financial resources as well as a better regional operational coordination of social and economic inclusion interventions for the benefit of RSC communities.

3. Assessment of the follow-up

A. Violation of Article E taken together with Article 31§1 of the Charter

The Committee refers to its previous findings (Findings 2015, 2018 and 2020), as well as to its latest conclusion concerning Article 31§1 (Conclusions 2019), where it maintained that the situation in Italy was not in conformity with the Charter because of the inadequate living conditions of Roma and Sinti in camps and similar settlements. It asked for information on the practical impact of the implementation of the National Strategy for the Inclusion of RSC for 2012-2020 with regard to housing, and on other measures planned to improve the situation.

The Committee takes note of the detailed information provided in the report on the implementation of the National Strategy for the Inclusion of RSC Communities 2012-2020 (see also previous findings of 2015, 2018 and 2020) and in particular of the examples provided concerning the measures taken by certain municipalities and regions and those still under way. It notes with interest that progress is being made at local level in finding housing solutions but finds that, on the one hand, there is no coherent and coordinated national approach towards inclusion and, on the other hand, in practice segregation of RSC communities has not yet been overcome.

The Committee notes in this respect that the 2019 ECRI Conclusions reiterated that, although in practice the powers of the National Office against Discrimination (UNAR) have been considerably broadened (with the extension of protection against almost all forms of discrimination), the absence of a clear legislative framework has an impact on the effectiveness of UNAR's action. According to ECRI Conclusions (CRI(2019)24 ECRI), UNAR is still not able to bring legal proceedings and its structure is still under the responsibility of the Department for Equal Opportunities of the Presidency of the Council of Ministers. Consequently, according to ECRI, this body does not comply with the principle of the independence of national bodies specialised in the fight against racism and intolerance.

The Committee also reiterates that, according to the 2020 Country report issued by the European Equality Law Network, "*In Italy, there are trends and patterns of housing segregation and discrimination against the Roma. Public administrations spend a huge amount of money on Roma camps without making significant improvements in the living conditions of the Roma community. On the contrary, the camps contribute to their segregation. There is a growing debate on the segregation of Roma people through their placement in 'camps', together with the harsh policies that are currently implemented against Roma settlements. However, there has not yet been any significant attempt to place the existence of the camps themselves within the framework of anti-discrimination law, with the exception of a case brought to the Court of Rome concerning a large settlement on the outskirts of the city*".

The Committee still considers that despite the genuine efforts made at municipal and regional levels, the interventions carried out have mostly an "experimental" or an "emergency" character and have so far failed to provide a long-term solution to segregation of RSC based on a coordinated national approach.

In the light of the foregoing, the Committee asks the next report to provide updated information on the questions raised in Conclusions 2019 and in the current and previous findings and in the meantime concludes that the situation has not been brought into conformity with the Charter.

B. Violation of Article E taken together with Article 31§2 of the Charter

The Committee refers to its previous findings (Findings 2015, 2018 and 2020), as well as to its latest conclusion concerning Article 31§2, where it noted that other international bodies and actors continued to report cases of forced eviction of RSC (see for details Conclusions 2019 on Article 31§2). It recalls in this connection that on 4 July 2019 it declared admissible a new complaint (Amnesty International vs. Italy, Complaint No. 178/2019) concerning notably allegations of forced evictions of RSC and decided that Italy should immediately adopt all possible measures to eliminate the risk of serious and irreparable harm to which the persons evicted and concerned by that complaint were exposed, in particular: to ensure that persons evicted are not rendered homeless and to ensure that evictions do not result in the persons concerned experiencing unacceptable living conditions.

In its previous findings, the Committee noted from the annual report (2019) issued by Associazione 21 Luglio, an NGO operating on the issue of RSC in Italy, that the number of forced evictions of RSC settlements passed from 250 in 2016 to 145 in 2019 and that at least in some cases these evictions were allegedly conducted without respecting the rights and dignity of the persons concerned and without offering alternative accommodation. In addition, the European Roma Rights Center has released in May 2021 a census of forced evictions of Roma in Italy covering the period from January 2017 to March 2021. The census shows that the authorities have carried out at least 187 evictions affecting 3,156 people who were, according to the census, in most cases made homeless or otherwise put into unstable housing solutions. According to the Amnesty International, in March 2020, the government suspended evictions and subsequently extended the measure until the end of the year. However, in August 2020, local authorities forcibly evicted the Roma settlement of Foro Italico in Rome. According to the Amnesty International, as a result of the evictions, many families were left homeless and many homeless people across the country could not access safe accommodation during the lockdown.

As in previous findings, the Committee reiterates that it is not clear from the report whether, in law and in practice, the Charter's requirements are respected. In particular, the report does not clarify what restrictions apply to evictions, what remedies and legal aid is available to prevent and to contest them and whether alternative accommodation is provided to the persons evicted. The report furthermore does not explain how these guidelines have been applied in the evictions of RSC settlements, how many persons have been concerned by such evictions and what steps have been taken to ensure the effective investigation and sanctioning in cases of unjustified violence. In respect of the lack of data currently available concerning specifically the number of forced evictions, the Committee recalls that when it is generally acknowledged that a particular group is or could be discriminated against, the state authorities have a responsibility for collecting data on the extent of the problem (§23 of the decision).

The Committee therefore reiterates its request for the next report to clarify these points.

Meanwhile, the Committee finds that the situation has not been brought into conformity with the Charter.

C. Violation of Article E taken together with Articles 31§1 and 31§3 of the Charter

The Committee refers to its previous findings (Findings 2015, 2018 and 2020) as well as to its latest conclusion concerning Article 31§3, where it found that it had not been established that sufficient resources had been invested throughout the country to improve access for RSC to social housing without discrimination in practice (see Conclusions 2019) and asked for

updated information on the measures taken throughout the country in relation to access for RSC to social housing.

The Committee takes note with interest of the increasing number of municipalities where RSC households have been able to access social housing and of the various coordination activities conducted by UNAR, such as the organisation of inclusive meetings of central administration and metropolitan cities and Regional Action Plans in order to develop local policies for housing issues. It asks the next report to provide further and updated information on access of RSC households to housing benefits and social housing and on the concrete results of initiatives, projects and coordination activities carried out by UNAR in this respect.

In the light of the information available and of its finding above (violation of Article E taken together with Article 31§1 of the Charter) related to the persistent patterns of segregated housing, the Committee considers that the situation has not yet been brought into conformity with the Charter.

4th Assessment of the follow-up: 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

A. Violation of Article E taken in conjunction with Article 31§1

The Committee concluded that there was a violation of Article E taken in conjunction with Article 31§1 on account of the inadequate living conditions of Roma and Sinti in camps or similar settlements in Italy. In particular, the Committee found that the living conditions of Roma and Sinti in camps had worsened following the adoption of certain "security measures" between 2006 and 2009 which, on the one hand, directly targeted these vulnerable groups and, on the other hand, were not accompanied by adequate steps to take due and positive account of the differences of the population concerned, thus leading to stigmatisation, amounting to discriminatory treatment (§58 of the decision).

B. Violation of Article E taken in conjunction with Article 31§2

The Committee concluded that there was an aggravated violation of Article E taken in conjunction with Article 31§2 because of the continuing practice of evicting Roma and Sinti without respecting the dignity of the persons concerned and without alternative accommodation being made available, with the aggravating factor that such evictions had involved unjustified force towards Roma, including by the police, without leading to systematic investigations and sanctions for the perpetrators and without any concerted action by the Government to counter stigmatisation. The Committee found, on the one hand, that the measures taken by the authorities violated human rights specifically targeting and affecting vulnerable groups and , on the other hand, public authorities not only were passive and did not take appropriate action against the perpetrators of these violations, but they contributed to such violence (§§73-79 of the decision).

C. Violation of Article E taken in conjunction with Article 31§3

The Committee concluded that there was a violation of Article E taken in conjunction with Article 31§3 because of the lack of effective access to social housing and resulting segregation of Roma and Sinti in camps. In particular, the Committee held that notwithstanding the complex distribution of competences between the national level and the Regions, the ultimate responsibility for policy implementation, involving a minimum of oversight and regulation of local action lay with the State (§§86-91 of the decision).

D. Violation of Article E taken in conjunction with Article 30

The Committee concluded that there was a violation of Article E taken in conjunction with Article 30 on account of the situation of poverty and social exclusion of Roma and Sinti, notably due to their substandard housing conditions and discriminatory restrictions to the exercise of their civil and political rights.

In particular, the Committee found that Italy had failed to adopt an overall and co-ordinated approach to promote effective access to housing and to prevent or eradicate the poverty situation affecting especially Roma and Sinti people who were evicted and rendered homeless without any social assistance from the Italian authorities and adequate access to public infrastructure or services. Furthermore, the Committee observed that the segregation and poverty situation affecting most of the Roma and Sinti population in Italy (especially those living in the camps) was linked to a civil marginalisation due to the failure of the authorities to address the Roma and Sinti's lack of identification documents, implying their discriminatory restriction of access to residency and citizenship and, accordingly, to participation in decision-making processes (§§98-110 of the decision).

E. Violation of Article E taken in conjunction with Article 16

The Committee concluded that there was a violation of Article E taken in conjunction with Article 16 on the grounds that, on the one hand, Roma and Sinti families did not have access to adequate housing and, on the other hand, they were not protected against undue interference in family life.

F. Violation of Article E taken in conjunction with Article 19§1

The Committee concluded that there was an aggravated violation of Article E taken in conjunction with Article 19§1 on account of the use of xenophobic political rhetoric or discourse against Roma and Sinti, which was indirectly allowed or directly emanating from the Italian authorities (§§136-140 of the decision).

G. Violation of Article E taken in conjunction with Article 19§4 c)

The Committee concluded that there was a violation of Article E taken in conjunction with Article 19§4 c) because of the violation of Article E taken in conjunction with Article 31. The Committee found in this respect that the shortcomings related to the housing conditions of Roma and Sinti in general constituted also a specific violation of the rights of Roma and Sinti migrant workers from other States Parties to the Charter, who are in a legal situation and should therefore not be discriminated in their access to public and private housing or to housing aids (§§145-147 of the decision).

2. Information provided by the Government

A. Violation of Article E taken in conjunction with Article 31§1

In its report, registered on 4 March 2021, the Government updates and supplements the information previously provided concerning the National Strategy for the Inclusion of Roma, Sinti and Camminanti (RSC) for 2012-2020 and refers to the further initiatives taken by the National Office against Racial Discrimination (UNAR), in the framework of the National Operational Programme (NOP) Inclusion 2014-2020 funded by the European Social Fund.
The report explains that during the emergency crisis caused by Covid-19 pandemic, the RSCs represented a particularly fragile group, especially in some camps characterised by a particular overcrowding and precarious hygienic sanitary conditions, in which some difficulties in the distribution of essential goods have been registered. According to the report, during the emergency period, the inadequate housing conditions have made even more difficult the ordinary continuation and integration processes already started. The spread of Covid-19 and the consequent and necessary restrictive regulations have worsened some problems related to the survival of people living in camps or similar settlements affecting the most marginalised groups.

For these reasons, the public project Local Action Plans (PAL) promoted by UNAR aimed at realising “leading interventions for the creation of working groups and networks of stakeholders involved in different ways with RSC community in order to encourage the participation of Roma in a social, economic and civic life” became active in 8 metropolitan cities: Milan, Rome, Bari, Naples, Catania, Messina, Genoa and Cagliari. The project is realised in full coordination with the concerned municipalities, the associations present in the territories and in synergy with other actions already implemented by UNAR. In order to face the emergency situation, in addition to central activities included in the PAL project, a series of low-threshold interventions have been encouraged and carried out by distributing basic necessities (drinking water, food etc.), medical devices and providing information, awareness and support interventions to ensure access for vulnerable subjects to ordinary and extraordinary measures, activated at national level by municipalities and regions.

According to the report, in the framework of the statistical survey to monitor the transition of RSC communities from settlements to other forms of housing, tables to map the most vulnerable situations concerning Roma and Sinti families and families living in conditions of extreme marginalisation (families living in unauthorised camps for instance) as well as maps of families in the need of food, educational aids, products for children have been created (Milan). In addition, UNAR, in collaboration with the National Institute of Statistics, has adopted a survey concerning people belonging to RSC communities which have abandoned the so-called "camps" to move towards other forms of housing. From 2012 to 2020, 96 housing projects aimed at the transition to standard living quarters have been started in 42 cities.

The report also explains that UNAR, through its own project entrusted to the Research Institute on Population and Social Policies has created an Evaluation Plan for the RSC National Strategy 2012-2020 and many initiatives and concrete actions have been identified. According to the report, despite the difficulties encountered, efforts are constantly made at various levels to take effective action and to adopt different measures and solutions. In this connection, the report provides undated information on previously reported examples of good practices developed at local level, concerning measures taken to facilitate the transfer of households from camps to housing units. These good practices include, but are not limited to, the adoption of a project of construction of a reception centre (Campania), promotion of self-financed housing and other alternative housing solutions (Emilia-Romagna), authorisation of RSC communities to buy agricultural lands owned by the municipalities and to install mobile homes (Friuli Venezia-Giulia), financial support for families to rent an apartment (Latium) or their lodging in alternative accommodation following the dismantling of camps (Piedmont), granting of social housing (Tuscany), or the activation of projects of housing inclusion or alternatives to camps (caravan, camper) (Sardinia) etc.

Moreover, the report refers to several good practices in different regions and municipalities, in order to promote school attendance for minors to help the integration of RSC communities. Some municipalities have planned interventions of local services to avoid school dropout of RSC pupils and health and educational courses have been planned for each family (Municipality of Budrio); initiatives have been taken by some municipalities in Friuli Venezia-Giulia to fight early school leaving (through cultural mediators, after school activities etc.); school buses, social, sporting and cultural assistance service were made available (Sardinia); in some municipalities, initiatives are underway to provide elderly or disabled people with professional training to carry out a job activity (Castelfranco Veneto).

The report refers to a number of regional laws, projects and agreements, regional resolutions and memoranda signed at municipal level on the basis of which the above-mentioned measures have been taken in order to implement the national strategies for the integration and social inclusion of RSCs.

B. Violation of Article E taken in conjunction with Article 31§2

The report firstly refers to the circulars of 1 September and of 15 July 2019 which were mentioned in the previous report and which defined some guidelines to be followed when carrying out evictions. In addition to the information submitted in the previous report, the report explains that the guidelines contained in those circulars, although not referring exclusively to interventions against RSC, must be strictly observed under the control of the Ministry of Interior. The report specifies that under the guidelines, the eviction operations must be based on a fundamental principle which requires utmost respect for persons in fragile conditions and the protection of families in situation of economic and social hardship. Therefore, the evictions of RSC settlements by local administrations, which might be mandatory for justified reasons, must take place in compliance with human rights and the principle of non-discrimination.

The report informs that the UNAR Guidelines for local authorities concerning camp eviction procedures, which were referred to in the previous report, were not yet formally adopted. However, a consultation plenary meeting was launched in November 2019 and contributions

on critical issues and proposals that can provide inspiration for the development of guidelines as part of the post-2020 strategy, have been obtained from 15 non-institutional stakeholders. Those stakeholders are all part of the National RSC Platform whose objective is the promotion and establishment of networks concerning the RSC communities.

The report refers to project proposals, made and monitored by UNAR, in order to overcome the issue of RSC settlements as places of isolation, physical and social deterioration. In this framework, the Local Action Plans, some of which have already been activated or approved through resolutions in eight metropolitan municipalities, envisages the development of methodologies and interventions about housing, which includes the issue of relocation of communities living in precarious or disadvantaged housing contexts. In addition, in 2018, UNAR has launched a two-year project (currently in progress) aimed at carrying out a qualitative and quantitative survey concerning the modalities through which people belonging to the RSC communities have abandoned the settlements and transferred to other forms of modern living. Moreover, the survey which is currently under preparation by the National Institute of Statistics, will provide data for local administrations on housing transitions (from settlements to ordinary homes).

The report points out that no data is currently available concerning specifically the number of forced evictions. However, it indicates that constant monitoring is guaranteed at the local level, both through the monitoring of the press and social networks and through constant meetings of National RSC Platform. A list of operations carried out most recently and those to be carried out is attached to the report.

C. Violation of Article E taken in conjunction with Article 31§3

The housing policies taken in favour of RSC are described in the report in connection with the abovementioned information concerning the National Strategy for the Inclusion of RSC for 2012-2020 (see above). The report mentions examples of regions (Friuli Venezia-Giulia, Liguria, Lombardy, Marche, Piedmont, Sardinia, Tuscany) where social housing to RSC households were allocated or where projects are under way to this effect.

The report also provides details concerning the coordination activities of UNAR with local administrations on the RSC housing issue. Considering that RSC settlements are places of isolation and physical and relational degradation, UNAR has launched various projects and monitored the initiatives, still in progress, aimed at encouraging the advancement towards “non-mono-ethnic housing” methods. According to the report, these actions and initiatives have been adopted on the basis of dialogue between various social actors involved in the problem and with the participation of RSC communities. In this respect, the report mentions a series of meetings organised with the participation of central administrations and the main Italian metropolitan cities in order to give a new impetus to local policies for the housing issue in large urban areas. The report also underlines that the Regional Action Plans (P.A.R.), launched by UNAR in 2020 aims at a greater coordination between central and local levels and at providing the regions with direct technical support and more effective access to financial resources as well as a better regional operational coordination of social and economic inclusion interventions for the benefit of RSC communities.

D. Violation of Article E taken in conjunction with Article 30

With regard to housing, the Government refers to the information provided above in connection with Article E taken in conjunction with Article 31 of the Charter (notably concerning the National Strategy for the Inclusion of RSC for 2012-2020, Regional and Local Action Plans, NOP Inclusion 2014-2020).

As regards other aspects of social inclusion of RSC and their participation in the decision-making process, the report indicates that the PAL project “Leading interventions for the creation of working groups and networks of stakeholders involved in different ways with the RSC community, in order to encourage the participation of Roma in social, economic and civic

policy", as well as ensuring support necessary in the RSC settlements, continued during 2019-2020, to provide important technical support to the administrations involved (8 metropolitan cities of Milan, Rome, Bari, Naples, Catania, Messina, Genoa and Cagliari), to promote the inclusion of RSC communities, the participation of Roma in social, political, economic and civic life and to promote models and guidelines for Local Action Plans and local sector networks.

According to the report, the local working groups set up on their respective territories have achieved the dual purpose of ensuring a synergic and homogenous implementation of the Strategy at the territorial level and carrying out an action of information, awareness and monitoring regarding the objectives envisaged in the individual areas of reference (Regions, Provinces, Municipalities). The report also mentions that the project activities were presented in a meeting, which was held on 13 February 2019 in Rome, to provide a first impression of the different territorial realities involved in the project and related to the characteristics of the Roma and Sinti population and an action-research that collected quantitative and qualitative data on the expressed needs, on the stakeholders, on the policy tools and on the first results of the actions.

The report explains that currently, the working groups of Messina, Bari, Cagliari, Milan, Catania and Naples established with municipal approval, carry out coordination of interventions for the RSC communities. During 2020, 9 face-to-face and 7 online meetings were held at the working groups, with the overall participation of 177 local stakeholders.

The report also refers to the information previously provided (Findings 2020) concerning the setting up by the National RSC Platform following an expression of interest with the admission of 79 associations from all over the national territory. The Platform constitutes an operational tool for dialogue between RSC representatives, sector associations and central and local public administrations involved in the abovementioned National Strategy. Among its objectives is the promotion and establishment of networks and the Forum of the RSC communities which constitutes a central core of the Platform.

The Forum is made up of 25 NGOs who have self-declared to be mainly composed of RSC people and to express a common position on some relevant issues to be raised to the relevant institutions, including housing issues and the overcoming of Roma settlements. The Platform and the Forum held 14 meetings since 2017 in order to discuss on specific situations and critical issues at the national and local level, including the issue of evictions and the necessary housing alternatives for people living in the settlements.

Furthermore, the activities started by the National RSC Platform as an operational tool for dialogue with the RSC and sector associations and the central and local public administrations involved in the National Strategy, are continuing. As mentioned above, the contributions received from the non-institutional stakeholders during a consultation plenary meeting held in November 2019, provide specific indications about housing and evictions which will provide inspiration for the development of post-2020 Strategy.

E. Violation of Article E taken in conjunction with Article 16

With regard to housing, the Government refers to the information provided above in connection with Article E taken in conjunction with Article 31 of the Charter.

F. Violation of Article E taken in conjunction with Article 19§1

The report limits its submission to indicating that a significant part of the actions carried out at national level by UNAR concern the collection and management of complaints of discrimination, carried out, more specifically, by its "Contact Centre" which is the contact point set up for reporting hate crimes, providing support and legal assistance to victims- and an Observatory on media and on the Internet, to train Romani youth and to monitor, remove or report hate speech.

G. Violation of Article E taken in conjunction with Article 19§4 c)

With regard to housing, the Government refers to the information provided above in connection with Article E taken in conjunction with Article 31 of the Charter.

3. Assessment on the follow-up

A. Violation of Article E taken in conjunction with Article 31§1

The Committee refers to its previous findings (Findings 2015, 2018 and 2020), as well as to its latest conclusion concerning Article 31§1 (Conclusions 2019), where it maintained that the situation in Italy was not in conformity with the Charter because of the inadequate living conditions of Roma and Sinti in camps and similar settlements. It asked for information on the practical impact of the implementation of the National Strategy for the Inclusion of RSC for 2012-2020 with regard to housing, and on other measures planned to improve the situation.

The Committee takes note of the detailed information provided in the report on the implementation of the National Strategy for the Inclusion of RSC Communities 2012-2020 (see also previous findings of 2015, 2018 and 2020) and in particular of the examples provided concerning the measures taken by certain municipalities and regions and those still under way. It notes with interest that progress is being made at local level in finding housing solutions but finds that, on the one hand, there is no coherent and coordinated national approach towards inclusion and, on the other hand, in practice segregation of RSC communities has not yet been overcome.

The Committee notes in this respect that the 2019 ECRI Conclusions reiterated that, although in practice the powers of the National Office against Discrimination (UNAR) have been considerably broadened (with the extension of protection against almost all forms of discrimination), the absence of a clear legislative framework has an impact on the effectiveness of UNAR's action. According to ECRI Conclusions (CRI(2019)24 ECRI), UNAR is still not able to bring legal proceedings and its structure is still under the responsibility of the Department for Equal Opportunities of the Presidency of the Council of Ministers. Consequently, according to ECRI, this body does not comply with the principle of the independence of national bodies specialised in the fight against racism and intolerance.

The Committee also reiterates that, according to the 2020 Country report issued by the European Equality Law Network, "*In Italy, there are trends and patterns of housing segregation and discrimination against the Roma. Public administrations spend a huge amount of money on Roma camps without making significant improvements in the living conditions of the Roma community. On the contrary, the camps contribute to their segregation. There is a growing debate on the segregation of Roma people through their placement in 'camps', together with the harsh policies that are currently implemented against Roma settlements. However, there has not yet been any significant attempt to place the existence of the camps themselves within the framework of anti-discrimination law, with the exception of a case brought to the Court of Rome concerning a large settlement on the outskirts of the city*". According to the same report, the National Strategy adopted in 2012 "*has not brought about any relevant results, in particular in housing. One of the reasons for this is the absence of activity promoted by UNAR, which had been identified as the national focal point" (...) "the national strategy provides incentives and promotes coordination without setting binding targets to be met by the regions. At national level, the Government could promote a law setting a minimum level of services, including housing, to be provided, but no such law is on the agenda of any political party*".

The Committee still considers that despite the genuine efforts made at municipal and regional levels, the interventions carried out have mostly an "experimental" or an "emergency" character and have so far failed to provide a long-term solution to segregation of RSC based on a coordinated national approach.

In the light of the foregoing, the Committee asks the next report to provide updated information on the questions raised in Conclusions 2019 and in the current and previous findings and in the meantime, concludes that the situation has not been brought into conformity with the Charter.

B. Violation of Article E taken in conjunction with Article 31§2

The Committee refers to its previous findings (Findings 2015, 2018 and 2020), as well as to its latest conclusion concerning Article 31§2, where it noted that other international bodies and actors continued to report cases of forced eviction of RSC (see, for details, Conclusions 2019 on Article 31§2). It recalls in this connection that on 4 July 2019 it declared admissible a new complaint (Amnesty International vs. Italy, Complaint No. 178/2019) concerning notably allegations of forced evictions of RSC and decided that Italy should immediately adopt all possible measures to eliminate the risk of serious and irreparable harm to which the persons evicted and concerned by that complaint were exposed, in particular: to ensure that persons evicted are not rendered homeless and to ensure that evictions do not result in the persons concerned experiencing unacceptable living conditions.

In its previous findings, the Committee noted from the annual report (2019) issued by Associazione 21 Luglio, an NGO operating on the issue of RSC in Italy, that the number of forced evictions of RSC settlements passed from 250 in 2016 to 145 in 2019 and that at least in some cases these evictions were allegedly conducted without respecting the rights and dignity of the persons concerned and without offering alternative accommodation. In addition, the European Roma Rights Center has released in May 2021 a census of forced evictions of Roma in Italy covering the period from January 2017 to March 2021. The census shows that the authorities have carried out at least 187 evictions affecting 3,156 people who were, according to the census, in most cases made homeless or otherwise put into unstable housing solutions. According to the Amnesty International, in March 2020, the government suspended evictions and subsequently extended the measure until the end of the year. However, in August 2020, local authorities forcibly evicted the Roma settlement of Foro Italico in Rome. According to the Amnesty International, as a result of the evictions, many families were left homeless and many homeless people across the country could not access safe accommodation during the lockdown.

As in previous findings, the Committee reiterates that it is not clear from the report whether, in law and in practice, the Charter's requirements are respected. In particular, the report does not clarify what restrictions apply to evictions, what remedies and legal aid is available to prevent and to contest them and whether alternative accommodation is provided to the persons evicted. The report furthermore does not explain how these guidelines have been applied in the evictions of RSC settlements, how many persons have been concerned by such evictions and what steps have been taken to ensure the effective investigation and sanctioning in cases of unjustified force. In respect of the lack of data currently available concerning specifically the number of forced evictions, the Committee recalls that when it is generally acknowledged that a particular group is or could be discriminated against, the state authorities have a responsibility for collecting data on the extent of the problem (§23 of the decision).

The Committee therefore reiterates its request for the next report to clarify these points.

Meanwhile, the Committee finds that the situation has not been brought into conformity with the Charter.

C. Violation of Article E taken in conjunction with Article 31§3

The Committee refers to its previous findings (Findings 2015, 2018 and 2020) as well as to its latest conclusion concerning Article 31§3, where it found that it had not been established that sufficient resources had been invested throughout the country to improve access for RSC to social housing without discrimination in practice (see Conclusions 2019) and asked for

updated information on the measures taken throughout the country in relation to access for RSC to social housing.

The Committee takes note with interest of the increasing number of municipalities where RSC households have been able to access social housing and of the various coordination activities conducted by UNAR, such as the organisation of inclusive meetings of central administration and metropolitan cities and Regional Action Plans in order to develop local policies for housing issues. It asks the next report to provide further and updated information on access of RSC households to housing benefits and social housing and on the concrete results of initiatives, projects and coordination activities carried out by UNAR in this respect.

In the light of the information available and of its finding above (violation of Article E taken together with Article 31§1 of the Charter) related to the persistent patterns of segregated housing, the Committee considers that the situation has not yet been brought into conformity with the Charter.

D. Violation of Article E taken in conjunction with Article 30

The Committee refers to its latest conclusion concerning Article 30, where it maintained that Italy was not in conformity with the Charter on the ground that there was no adequate overall and coordinated approach to combating poverty and social exclusion (see Conclusions 2017) as well as to its latest assessments (2018 and 2020) of the follow-up to the decision in the present complaint. It takes note of the developments described in the report, but notes that most of the measures referred to in the report are still under way and do not allow to conclude that the situation of marginalisation and social exclusion of Roma and Sinti has been remedied. It accordingly asks the next report to continue to provide up-to-date information on the results achieved in this respect and to clarify whether and how the initiatives taken at local level are coordinated and monitored at national level.

The Committee also notes that according to the 2021 Country report issued by the European Equality Law Network, "*with regard to the national Roma strategy (…) there is still lack of effective implementation following its adoption. (…) A positive trend on housing policies regarding Roma, Sinti and Camminanti has been recorded in 2019, with the reduction of camps in several cities. The situation in Rome appears to be still highly problematic. As far as UNAR, its lack of independence makes it more an office operating within the Department for Equal Opportunities, than an equality body with a certain degree of autonomy from the Government. As confirmed by the ECRI report published in 2019, UNAR is clearly and completely linked to the executive and cannot perform any independent activity whatsoever, despite the fact that it has at times adopted a critical position in relation to the Government. However, it must be noted that the majority of these cases were initially highlighted by the media or individual lawyers, and UNAR became involved only later after significant pressure from different organisations. This shows that, in general, UNAR does not take the initiative autonomously, although it may issue opinions after being requested to intervene by other associations or NGOs."*

In the light of the information available on social inclusion and participation and of the findings concerning the housing situation (see above), the Committee considers that the situation has not been brought into conformity with the Charter on this point.

E. Violation of Article E taken in conjunction with Article 16

The Committee refers to its previous findings in 2018 and 2020, as well as to its latest Conclusion concerning Article 16, where it found that it had not been established that sufficient resources had been invested throughout the country to improve access for RSC to social

housing without discrimination in practice (see Conclusions 2019) and asked for updated information on the measures taken throughout the country to this effect.

Since the information provided in respect of Article E taken in conjunction with Article 31 did not make it possible to conclude that the situation had been brought into conformity with the Charter, the Committee finds that the situation has also not been brought into conformity with Article E taken in conjunction with Article 16.

F. Violation of Article E taken in conjunction with Article 19§1

The Committee refers to its previous findings in 2018 and 2020, as well as to its latest conclusion concerning Article 19§1 where it maintained that the situation was not in conformity with the Charter on the ground that the measures against misleading propaganda concerning emigration, in particular to prevent racism and xenophobia in politics, and, more particularly, misleading propaganda against Roma and Sinti migrants, were not sufficient and asked for detailed, updated information on measures taken in this respect (see Conclusions 2019).

It notes that the report does not provide any new element on this point. According to the 2021 Country report issued by the European Equality Network, "*hostility against the Roma is still present among the population, with several politicians openly supporting policies of segregation in housing and education. School drop-out rates among Roma pupils are an issue of serious concern. They may be a direct consequence of housing segregation, with camps based far from schools and sudden transfers of people from one camp to another*." The Committee asks the next report to comment on these allegations in the light of updated and more detailed data about the measures taken to prevent misleading, racist and xenophobic propaganda as well as about the measures effectively taken to sanction such propaganda, notably in relation to institutional and political speech.

In the meantime, the Committee considers that the situation has not been brought into conformity with Article E taken in conjunction with Article 19§1 of the Charter.

G. Violation of Article E taken in conjunction with Article 19§4 c)

The Committee refers to its previous findings in 2018 and 2020, as well as to its latest Conclusion concerning Article 19§4 c), where it found that it had not been established that Italy had taken adequate practical steps to eliminate all legal and *de facto* discrimination concerning the access to accommodation (Conclusions 2019).

Since the information provided in respect of Article E taken in conjunction with Article 31 did not make it possible to conclude that the situation had been brought into conformity with the Charter, the Committee finds that the situation has also not been brought into conformity with Article E taken in conjunction with Article 19§4 c).

3rd assessment of the follow-up: International Planned Parenthood Federation – European Network (IPPF EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013, Resolution ResChS(2014)6

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

A. Violation of Article 11§1 of the Charter

The Committee found 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 (see notably §§169-177 of the decision).

B. Violation of Article E read in conjunction with Article 11 of the Charter

The Committee found 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 (see notably §§190-194 of the decision). The Committee considered in particular that there was a discrimination on the grounds of territorial and/or socio-economic status between women who have relatively unimpeded access to lawful abortion facilities and those who do not and a discrimination on the grounds of gender and/or health status between women seeking access to lawful termination procedures and men and women seeking access to other lawful forms of medical procedures which are not provided on a similar restricted basis.

2. Information provided by the Government

A. Violation of Article 11§1 of the Charter

In its report, registered on 4 March 2021, the Government updates and supplements the information previously provided (19th report provided by the Government) on the follow-up given to collective complaint on voluntary termination of pregnancy (VTP) and conscientious objection of medical practitioners in relation to the termination of pregnancy.

The report refers to the report of the Minister of Health, submitted to Parliament on 9 June 2020 which analysis and illustrates the definitive data relating to 2018 in respect to abortion services and indicates that a new system to collect data from investigations on reproductive health (including VTPs) has been activated by the National Statistics Institute (ISTAT). Through his single web platform, the Regions, Local Health Authorities and structures can have access and upload/update various data and information regarding the VTPs. The report indicates that the transition from the old system to the new platform is gradually taking place so that the full use of this tool will be implemented by 2020-2021.

According to the report on VTP, submitted to Parliament in June 2020 and referring to the data of 2018:

- the number of VTP decreased by 5.5% in 2018 (76,328 cases), compared to 2017 (80,733 cases). The report explains that the constant decreases in VTP use in Italy is certainly a positive sign of a better information on responsible procreation and the activity carried out by health services.
- the waiting time between the issue of the certification by the healthcare personnel and the intervention, shows that the percentage of VTP carried out within 14 days of the

release of the documents has slightly increased. Whereas, in 2017, 68.8% of the VTP were carried out within 14 days from the release of the documents, this figure corresponds to 70.2% in 2018 (66.3% in 2016, 65.3% in 2015 and 59.6% in 2011). The percentage of VTPs carried out after more than 3 weeks of waiting time has decreased: 10.8% in 2018 compared to 10.9% in 2017 (12.4% in 2016, 13.2% in 2015 and 2014 and 15.7% in 2011).

- in 2018, Regions reported that 69% of gynaecologists, 46.3% of anaesthesiologists and 42.2% of non-medical personnel submitted conscientious objection. According to the report, these values has slightly increased compared to the figures reported in 2017 (68.4% of gynaecologists, 45.6% of anaesthesiologists) and they show large regional differentiations for all three categories.

The report indicates that in order to monitor the full implementation of Law 194/78 concerning the exercise of the right to conscientious objection, three parameters, showing the service offering according to demand and availability of instrumental and professional resources relating to 2018, have been identified:

- VTP service offer in relation to the absolute number of available facilities: a slight increase in the percentage of available facilities has been recorded. At national level, in 2018, the number of hospitals with a department of obstetrics and gynaecology was equal to 558 (591 in 2017), while the number of structures performing VTP was 362 (381 in 2017), i.e., 64.9% of the total number (in 2017, 64.5% of the total number).

- VTP service offer in relation to the fertile population and maternity wards: the number of VTP represents 17.6% of the number of births (same figures as in 2017) and 87.8% of maternity wards have VTP services. The report indicates that the offer of VTP services is more than adequate to the number of VTP performed.

- As regards the impact of the exercise of the right to conscientious objection on women's access to VTP, the report refers to the weekly average workload for the VTP of non-objecting gynaecologist, registered over 44 working weeks per year. The national data for 2018 shows a workload of 1.2 VTP per non-objecting gynaecologist per week (those figures were 1.2 in 2017, 1.6 in 2016 and 1.3 in 2015) with a minimum of 0.3 cases in Valle d'Aosta (0.2 in 2017) and a maximum of 3.8 cases in Molise (8.6 in 2017). The report indicates that a stable or slightly decreasing data for almost all Regions has been recorded, except for Valle d'Aosta, P.A. of Bolzano and Trento and Emilia Romagna, where a slight increase has been registered. According to the report, a weekly average workload analysis for each non-objecting gynaecologist and hospitalisation facility highlights only two regions marked by a weekly workload higher than 9 VTP per week (14.6 in Puglia and 9.5 in Calabria).

On the basis of the information provided in the annual report on VTP of the Minister of Health submitted to Parliament, the report concludes that:

- in Italy, the VTP has been steadily decreasing since 1983.

- the increased use of emergency contraception has positively affected the VTP reduction. No compulsory medical prescription is required for adult women.

- family planning services are important for the support they provide for women when they decide to terminate their pregnancy.

- Waiting times are decreasing, although a not insignificant variability among regions persists.

- data analysis on conscientious objection shows high values for all health professional categories, particularly gynaecologists, and the report indicates that regions must ensure that the organisation of services and professional figures guarantee women the

possibility of accessing the voluntary termination of pregnancy, pursuant to Article 9 of Law no. 194/78.

B. Violation of Article E read in conjunction with Article 11 of the Charter

See above.

3. Assessment on the follow-up

A. Violation of Article 11§1 of the Charter

The Committee takes note of the information provided in the report, as well as the information concerning *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013, decision on the admissibility and the merits of 12 October 2015. It also refers to its previous findings in 2018 and 2020, where it noted that, despite certain signs of improvement, there were still major disparities at local and regional level as regards access to VTP services. In the previous finding, the Committee asked that the next report comment/provide information, in particular, on:

- whether and to what extent regions are effectively regulating their healthcare services in such a way as to ensure that all women can have access to VTP in their region under safe and efficient conditions.

- the number or percentage of VTP requests which could not be performed in a given hospital or region because of the insufficient availability of non-objecting doctors and supporting staff.

- the number of clandestine abortions and the number of objectors among pharmacists and family planning centres staff and the impact that this can have on effective access to VTP.

The Committee notes that although the report states that Regions must ensure that the organisation of services and professional figures guarantee women the possibility of accessing the VTP and that the available monitoring tools allow the regions to ensure an efficient planning of their VTP services, it does not provide information on concrete measures taken by the regions in order to regulate their healthcare services to ensure that all women can have access to the VTP in their region. Moreover, the statement, in the report, that some health care services have carried out VTP even though only objecting gynaecologists were available among their staff, in the absence of any other information, does not allow the Committee to conclude that the measures taken or envisaged to ensure the adequacy of regional organisational capacity in this respect are adequate and efficient.

Furthermore, the report does not provide any data on the number of VTP requests which could not be performed in a given region/in all regions because of the insufficient availability of non-objecting doctors. Nor does the report provide a precise figure concerning the number of objectors among pharmacists and family planning centres staff. The Committee reiterates its request for information in these respects.

Despite positive developments such as the reduction in the average waiting time between the issue of the certification by the healthcare personnel and the intervention (which, according to the decision on the merits in the present complaint, does not rebut the argument that pregnant women encounter problems in accessing abortion procedures), the Committee notes the increase in the number, in 2018, of gynaecologists and anaesthesiologists who submitted conscientious objection which could significantly impair access to VTP, considering that general anaesthesia was used in over 52% of VTP in Italy in 2018. The Committee also notes the decrease, in absolute figures, in the number of structures performing VTP (from 381 in 2017 to 362 in 2018) and that the number of clandestine abortions was between 10,000 and 13,000 cases in 2016 (no updated data is available in the report).

In this respect, the Committee finds that the information submitted does not show that the measures to ensure that abortions requested in accordance with the applicable rules are performed in all cases and that the disparities at local and regional level have been reduced.

The Committee reiterates that according to Human Rights Watch (https://www.hrw.org/news/2020/07/30/italy-covid-19-exacerbates-obstacles-legal abortion) Covid-19 exacerbated obstacles to access to VTP, due to a lack of clear guidance as to the rules applicable to VTP during the pandemics, the maintaining of restrictive rules regarding access to medical abortion and the suspension of VTP services in many hospitals. The Committee reiterates its request that the next report to comment on these allegations and to provide relevant data on these issues.

In the meantime, the Committee considers that the situation has not yet been brought into conformity with the Charter with regard to women's right to access to VTP in accordance with the applicable rules in all cases (Article 11§1).

B. Violation of Article E read in conjunction with Article 11 of the Charter

The report does not comment on whether the limited access, in some regions, to VTP, has the result of women having to travel to another town, region or even abroad to have an abortion, nor does it not provide any updated information or figures on VTP carried out on women not residing in the region and VTP carried out within the same region. The Committee therefore reiterates its request that the next report clarify what measures exist to monitor the number of cases where women could not avail themselves of VTP services in their region due to obstacles related to the lack of non-objecting health staff.

The Committee refers to its assessment above, concerning Article 11 of the Charter and finds, for the same reasons, that the situation has not yet been brought into conformity with the Charter as regards the discrimination against women wishing to terminate their pregnancy and violation of their right to health because of problems with access to abortion services (Article E, read in conjunction with Article 11 of the Charter).

3rd Assessment of the follow-up: *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

A. Violation of Article 11§1 of the Charter

The Committee found that there was a violation of Article 11§1 of the Charter because of shortcomings in the services for the termination of pregnancies in Italy, which, despite the applicable legislation, make access to these services difficult for the women concerned who face substantial difficulties in obtaining access to such services and who are forced to seek alternative solutions at risk to their health, and the failure of health facilities to take the necessary measures to compensate for the deficiencies in service provision caused by conscientious objector health personnel.

B. Violation of Article E read in conjunction with Article 11 of the Charter

The Committee found that there was 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.The Committee considered in particular that there was a discrimination on the grounds of territorial and/or socio-economic status between women who have relatively unimpeded access to lawful abortion facilities and those who do not and a discrimination on the grounds of gender and/or health status between women seeking access to lawful termination procedures and women seeking access to other lawful forms of medical procedures which are not provided on a restricted basis.

C. Violation of Article 1§2 of the Charter

The Committee found that there was a violation of Article 1§2 of the Charter, first ground (discrimination), because it considered that there was no reasonable or objective reason justifying the difference in treatment between objecting and non-objecting medical practitioners, namely the cumulative disadvantages the latter suffered at work, both directly and indirectly, in terms of workload, distribution of tasks, career development opportunities etc. The Committee found that this difference in treatment arises simply on the basis that certain medical practitioners provide abortion services in accordance with the law and that, therefore, there was no reasonable or objective reason for this difference in treatment.

D. Violation of Article 26§2 of the Charter

The Committee found that there was 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.

2. Information provided by the Government

A. Violation of Article 11§1 of the Charter

In its report, registered on 4 March 2021, the Government updates and supplements the information previously provided (19th report submitted by the Government) on the follow-up given to the Committee's decision on voluntary termination of pregnancy (VTP) and conscientious objection of medical practitioners in relation to the termination of pregnancy.

The report indicates that there have been no changes to Law No. 194 of 22 May 1978 containing "Rules for the social protection of maternity and on the voluntary termination of pregnancy" which ensures both all women concerned to access the procedure of VTP and

health care personnel the right to conscientious objection in accordance with Article 9 of this law.

The report refers to the report of the Minister of Health, submitted to Parliament on 9 June 2020 which analysis and illustrates the definitive data relating to 2018 on the implementation of the Law No. 194 and the abortion services. According to the report of the Minister of Health, in 2018, 69% of gynaecologists, 46.3% of anaesthesiologists and 42.2% of non-medical personnel submitted conscientious objection. According to the report, these values has slightly increased compared to the figures reported in 2017 (68.4% of gynaecologists, 45.6% of anaesthesiologists) and they show large regional differentiations for all three categories.

As regards the impact of the exercise of the right to conscientious objection on women's access to VTP, the report refers to the weekly average workload for the VTP of non-objecting gynaecologist, registered over 44 working weeks per year. The national data for 2018 shows a workload of 1.2 VTP per non-objecting gynaecologist per week (those figures were 1.2 in 2017, 1.6 in 2016 and 1.3 in 2015) with a minimum of 0.3 cases in Valle d'Aosta (0.2 in 2017) and a maximum of 3.8 cases in Molise (8.6 in 2017).

The report indicates in addition that some structures have declared that they have carried out VTP even though only objecting gynaecologists are available in their staff, demonstrating in this way the regional organisational capacity to guarantee the service, through the mobility of non-objecting personnel working in other structures. The report also indicates that the number of clandestine abortions was between 10,000 and 13,000 cases in 2016 (no updated data in available in the report) and that the increased use of emergency contraception has positively affected the VTP reduction. No compulsory medical prescription is required for adult women for emergency contraception.

The report provides information on monitoring of family planning services, the use of which was prevalent for the issue of the document/certification necessary for VTP requests, compared to other services. Family planning services also play an important role in support to women who decide to terminate pregnancy, even if not uniformly in the territory, such as pre-procedure counselling for termination of pregnancy, information on medical and surgical abortion, psycho-social counselling, post-surgery medical checks and counselling post-operative contraceptive. The report underlines that almost all family planning services carry-out counselling activities before the procedure and provide information on the intervention technique, without any difference relating to geographical area.

B. Violation of Article E read in conjunction with Article 11 of the Charter

The Government refers to the information provided in respect of Article 11§1 of the Charter (see above).

C. Violation of Article 1§2 of the Charter

The report refers to the information provided in the previous report (19th report provided by Italy) and indicates that no changes have occurred in the relevant legislation.

D. Violation of Article 26§2 of the Charter

The report refers to the information provided in the previous report (19th report provided by Italy) and indicates that no changes have occurred in the relevant legislation.

3. Assessment of the follow-up

A. Violation of Article 11§1 of the Charter

The Committee takes note of the information provided in the report, as well as the information concerning *IPPF* v. Italy, Complaint No. 87/2012, decision on the merits of 10 September

2013. It also refers to its previous findings in 2018 and 2020, where it noted that, despite certain signs of improvement, there were still major disparities at local and regional level as regards access to VTP services.

In the previous finding, the Committee asked that the next report comment/provide information, in particular, on:

- whether and to what extent regions are effectively regulating their healthcare services in such a way as to ensure that all women can have access to VTP in their region under safe and efficient conditions.
- the number or percentage of VTP requests which could not be performed in a given hospital or region because of the insufficient availability of non-objecting doctors and supporting staff.
- the number of clandestine abortions and the number of objectors among pharmacists and family planning centres staff and the impact that this can have on effective access to VTP.

The Committee notes that although the report states that Regions must ensure that the organisation of services and professional figures guarantee women the possibility of accessing the VTP and that the available monitoring tools allow the regions to ensure an efficient planning of their VTP services, it does not provide information on concrete measures taken by the regions in order to regulate their healthcare services to ensure that all women can have access to the VTP in their region. Moreover, the statement, in the report, that some structures have carried out VTP even though only objecting gynaecologists were available among their staff, in the absence of any other information, does not allow the Committee to conclude that the measures taken or envisaged to ensure the adequacy of regional organisational capacity in this respect are adequate and efficient.

Furthermore, the report does not provide any data on the number of VTP requests which could not be performed in a given region/in all regions because of the insufficient availability of non-objecting doctors. Nor the report provides a precise figure concerning the number of objectors among pharmacists and family planning centres staff. The Committee reiterates its request for information in these respects.

Despite positive developments such as the reduction in the average waiting time between the issue of the certification by the healthcare personnel and the intervention (which, according to the decision on the merits in the present complaint, does not rebut the argument that pregnant women encounter problems in accessing abortion procedures), the Committee notes the increase in the number, in 2018, of gynaecologists and anaesthesiologists who submitted conscientious objection which could significantly impair access to VTP, considering that general anaesthesia was used in over 52% of VTP in Italy in 2018. The Committee also notes the decrease, in absolute figures, in the number of structures performing VTP (from 381 in 2017 to 362 in 2018) and that the number of clandestine abortions was between 10,000 and 13,000 cases in 2016 (no updated data is available in the report).

In this respect, the Committee finds that the information submitted does not show that the measures to ensure that abortions requested in accordance with the applicable rules are performed in all cases and that the disparities at local and regional level have been reduced.

The Committee reiterates that according to Human Rights Watch (https://www.hrw.org/news/2020/07/30/italy-covid-19-exacerbates-obstacles-legal abortion) Covid-19 exacerbated obstacles to access to VTP, due to a lack of clear guidance as to the rules applicable to VTP during the pandemic, the maintaining of restrictive rules regarding access to medical abortion and the suspension of VTP services in many hospitals. The Committee reiterates its request that the next report to comment on these allegations and to provide relevant data on these issues.

In the meantime, the Committee considers that the situation has not yet been brought into conformity with the Charter with regard to women's right to access to VTP in accordance with the applicable rules in all cases (Article 11§1).

B. Violation of Article E read in conjunction with Article 11 of the Charter

The report does not comment on whether the limited access, in some regions, to VTP, results in that women are often forced to travel to another town, region or even abroad to have an abortion, nor does it not provide any updated information or figures on VTP carried out on women not residing in the region and VTP carried out within the same region. The Committee therefore reiterates its request that the next report clarify what measures exist to monitor the number of cases where women could not avail themselves of VTP services in their region due to obstacles related to the lack of non-objecting health staff.

The Committee refers to its assessment above, concerning Article 11 of the Charter and finds, for the same reasons, that the situation has not yet been brought into conformity with the Charter as regards the discrimination against women wishing to terminate their pregnancy and violation of their right to health because of problems with access to abortion services (Article E, read in conjunction with Article 11 of the Charter).

C. Violation of Article 1§2 of the Charter

In the previous finding (Finding 2020), the Committee took note of the information provided concerning the legal framework, i.e. Legislative Decree No. 216/2003 (which has transposed the EU Council Directive 2000/78/EC concerning equal treatment in terms of employment and working conditions) providing for equal treatment and protection from discrimination on ground *inter alia* of personal beliefs. It asked that the next report provide information on how these provisions are applied in practice, in particular as regards discrimination on account of conscientious objection. It furthermore asked for information about any measure taken to raise the awareness of medical and non-medical staff about discrimination on account of personal belief, including conscientious objection, and train them in order to prevent direct or indirect discrimination and harassment towards non-objecting practitioners. The Committee also considered that this information was necessary with a view to assessing whether in practice there is or not direct or indirect discrimination in the workload and career perspectives of non-objecting health staff in comparison to objecting health staff.

The report does not provide any information in these respects. The Committee reiterates its request and considers in the meantime that the situation has not been brought into conformity with the Charter with regard to discrimination against non-objecting medical practitioners.

D. Violation of Article 26§2 of the Charter

The Committee refers to its assessment above, concerning Article 1§2 of the Charter and finds, for the same reasons, that the situation has not been brought into conformity with the Charter as regards protection of non-objecting medical practitioners from moral harassment.

1st Assessment of the follow-up: *Confederazione Generale Italiana del Lavoro* (CGIL) v. Italy, Complaint No. 140/2016, decision on the merits of 22 January 2019, Resolution CM/ResChS(2019)6

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

A. Violation of Article 5

The Committee concluded that there was a violation of Article 5 of the Charter on account of the fact the restriction on the right to organise of members of the *Guardia di Finanza* is excessive in that the establishment of trade unions or professional organisations by its members is subject to the prior consent of the Minister of Defence, in the absence of administrative and judicial remedies against arbitrary refusal of registration.

The Committee also held, with regard to freedom to join or not to join organisations, that the absolute prohibition on members of *Guardia di Finanza* under Article 1475(2) of the Military Code, to join "other trade unions", where the *Guardia* is functionally equivalent to a police force or to an armed force, is disproportionate since it deprives its members of an effective means to claim their economic and social interests and is not necessary in a democratic society in breach of Article 5 of the Charter (§§83, 88 and 98 of the decision)

B. Violation of Article 6§2

The Committee concluded that there was a violation of Article 6§2 of the Charter on the grounds that the representative bodies of *Guardia di Finanza* were not provided with means to effectively negotiate the terms and conditions of employment, including remuneration. In particular, the Committee held, concerning the procedure laid down by the legislation with regard to consultations of the representative bodies of the *Guardia di Finanza*, that it was not shown that this procedure effectively ensures meaningful negotiations as opposed to mere hearing and that the representative bodies were, in the practice, able to frequently meet the Ministers concerned or their representatives in order to negotiate on matters relating to working conditions and pay of the members of the *Guardia di Finanza*.

The Committee also considered that in case of disagreement, the representative bodies may only send their observations to the respective Ministers and that this procedure did not present the characteristics of a real negotiation between two parties and a reasonable alternative to the bargaining process (§§ 130-132 of the decision).

C. Violation of Article 6§4

The Committee concluded that there was a violation of Article 6§4 of the Charter on account of the absolute prohibition of the right to strike imposed on members of the *Guardia di Finanza*.

The Committee considered that although restrictions on the right to strike in the context of "minimum service" requirements in the event of a strike in the defence sector, or the provision of a regular and effective procedure of negotiations between the members of the *Guardia di Finanza* and the command authority, would be proportionate and compatible with the Charter, the absolute prohibition of the right to strike imposed on members of the *Guardia di Finanza* cannot be considered as being necessary in a democratic society in violation of Article 6§4 of the Charter (§152 of the decision).

2. Information provided by the Government

A. Violation of Article 5

The report, registered on 4 March 2021, indicates that since the decision No. 120/2018 of 11 April 2018 of the Constitutional Court which declared unconstitutional the first part of Article 1475(2) of the Military Code with regard to the prohibition for military personnel to form trade unions, a total of seven Professional Trade Union Associations among Military Soldiers (APCSM) made up exclusively from the Military Corps, in addition to four joint APCSM, have been established.

Moreover, a draft law containing draft rules on "the exercise of trade union freedom of the personnel of the Armed Forces and Police Forces with military order, as well as delegation to the Government for regulatory coordination" was approved by the Chamber of Deputies and currently being examined by the Senate of Republic. Article 3 of the draft law provides that, before carrying out trade union activities, the APCSMs, should deposit the statute with the relevant Ministry which is required to ascertain its compatibility with the legal applicable framework and if so, to arrange for a transcription in the appropriate register. The report also indicates that the draft law regulates the participation of APCSMs in the proceedings in order to guarantee its legitimacy and transparency in the event of a refusal of the registration.

According to the report, pending approval of this draft law, all the requests regarding the establishment of professional associations for military personnel have been concluded with a favourable outcome.

As to the prohibition imposed on members of *Guardia di Finanza* under Article 1475(2) of the Military Code, to join "other trade unions", the report indicates that the abovementioned draft law, in order to ensure the "compactness" and "unity" of the military institutions, expressly establishes/maintain the prohibition (i) for professional trade union associations among military personnel (APCSM) to assume the representation of workers who do not belong to the military or police forces; (ii) for military personnel to join trade union professional associations other than APCSM.

In order to justify the prohibition maintained by the draft law, the report indicates that the prohibition is provided in a rule of primary status (Article 1475(2) of the Military Code) and that the legitimacy of this limitation was confirmed by the Constitutional Court in its decision No. 120/2018. In this respect, the report underlines that, in its decision, the Constitutional Court pointed out that the "specificities of the military order justify the exclusion of forms of association deemed not to meet the consequent needs for compactness and unity of the organisations that make up this order". According to the report, the crucial role played by the military personnel would be irremediably compromised by the presence in its ranks of individual representatives of the Armed Forces who were allowed to affiliate or join associations which, by their very nature and for the purposes pursued, clash with the founding principles of the military institutions of which they belong.

B. Violation of Article 6§2

The report refers to the draft law currently under examination by the Senate of Republic which provides, among other things, the attribution of negotiating powers to the APCSMs that will be recognised, based on the number of members, as the most representative at national level and which will take part in the negotiation procedures for the stipulation of trade union agreements.

The draft law will also introduce an additional negotiation procedure through which the APCSMs will be able to settle with the relevant administrations, issues relating to the distribution of ancillary and productivity.

C. Violation of Article 6§4

The report indicates that in its decision No. 120/2018 of 11 April 2018, the Constitutional Court has recognised the legitimacy of the prohibition of the right to strike for military personnel, in particular, in view of the "principle of neutrality" provided for by the Constitution for the entire public administration, but which is a vital value for the military corps responsible for the "defence of the homeland". The ban on right to strike, therefore, aims at preventing that the abstention from work compromise the most important constitutional rights such as individual freedom, physical integrity, citizen's safety and national security.

According to the report, the protection of fundamental rights must always be "systemic and not divided into a series of uncoordinated and potentially conflicting rules". Otherwise, there would be unlimited expansion of one of the rights (the right to strike in this case), which would become a "tyrant" against other legal situations that are constitutionally recognised and protected, including, as specified by the Council of State, the military defence of the State.

The report states that there is an absolute incompatibility between the principles of neutrality, cohesion, and the efficiency of the military administrations for the protection of fundamental interests of Italian and EU citizens and the recognition of the right to strike (i.e. to decide to independently "abstain" from the duties and obligations to defend the fundamental interests, the democratic life and integrity of the Nation). The Government is of the opinion that any collective abstention from work by the members of the *Guardia di Finanza* is inadmissible because it would undermine the very foundations of the State and endanger human life and personal safety.

The report also considers that the "minimum service" requirements, referred to by the Committee in its decision, cannot be recognised as an efficient measure considering the specificities of national defence task, to which corps contributes by being an integral part of the Armed Forces and participating in the political-military defence of borders. Therefore, for the report, the concrete ways of exercising the freedom of trade union association must carefully be balanced with the fundamental functions of national defence, order and public security.

In comparing other European legal systems to that of Italy, the Government finds that the right to strike in the defence and security sector is subject to similar limitations than those in force in Italy. The report states that the absolute ban on strikes for military personnel is a fundamental principle aimed at ensuring the protection of the entire national system and State security. Therefore, the draft law under examination by the Senate of Republic maintains the ban on strikes for military personnel.

3. Comments by the European Organisation of Military Associations and Trade Unions (EUROMIL)

In its comments, registered at the Secretariat on 3 August 2021, the *European Organisation of Military Associations and Trade Unions* (EUROMIL) states that the Government has allowed the current, so-called trade unions, to establish their organisation but without allowing them to carry out any activity. According to EUROMIL, the authorities continue to communicate exclusively with the representative bodies of the *Guardia di Finanza* (COCER) which results in a real exclusion of the so-called trade unions from the relevant consultations. EUROMIL submits that in a letter of 18 November 2020, the Ministry of Economy and Finance refused the request made by the National Financiers Union (SI.NA.FI) to participate in the consultation process of the renewal of the collective agreement for the period 2019-2021, stating that "until the adoption of an ad-hoc reform, it will not be possible (…) to allow the request to convene this association, like any other professional body that has received recognition from the Ministry of Economy and Finance".

EUROMIL also criticises the draft law which is currently pending before the Senate of Republic that it constrains the operational activity of the unions byway of requiring ministerial consent

and that the Ministry may revoke the authorisation to carry out trade union activities if it considers that any subsequent amendment to the statute of the trade union is incompatible with legal requirements. In addition, under the draft law and the current ministerial decree rules, armed force personnel and the *Guardia di Finanza* and their trade unions, are not allowed to join trade union organisations that are not specifically set up for military personnel.

The absolute ban on the right to strike is still imposed on members of the *Guardia di Finanza* under the provisions of the Military Code whereas the Committee concluded that this total ban is not proportionate to the legitimate aim pursued and, therefore, is not necessary in a democratic society.

4. Comments by Associazione Finanzieri Cittadini e Solidarieta' (FICIESSE)

In its submissions, registered at the Secretariat on 20 September 2021, the *Associazione Finanzieri Cittadini e Solidarieta'* (FICIESSE) states that after the judgment no. 120/2018 of the Constitutional Court recognising the legitimacy of trade unions of military personnel, the Ministry of Defence and the Ministry of Economy and Finance issued two circulars in 2018 indicating specific conditions, including the maintenance of the ban on the right to strike and on joining other non-military trade union associations, to allow the procedures for the establishment of trade union professional associations. The procedure for obtaining prior authorisation and, therefore, being able to establish a trade union is as follows: - transmission to the General Command of the *Guardia di Finanza* of a draft statute of the union to be established; - formulation by the General Command of an opinion and transmission to the Ministry of Economy and Finance, together with the draft statute; - within 180 days of the request, issuing of an authorisation (or rejection) decree signed by the Minister.

In addition, the decree of 22 December 2018 of the Ministry of Defence attributed the power of consultation to the military representative bodies, granting the military unions the exercise of an unspecified activity of dialogue with reference only to the issues of general nature. The FICIESSE states that although, as of February 2020, 18 trade unions for military personnel have been established, the Government continues to engage in dialogue only with military representative bodies (such as COCER) and therefore, the military trade unions are effectively excluded and prevented from fulfilling their activities. By failing to recognise trade union subjectivity with its own aims and objectives, the Government denies the right of its employees to make use of the trade union structure to which they are registered for the defence of their interests, to the detriment of the employees whose trade union rights inevitably end up being denied.

5. Comments by Confederazione Generale Italiana Del Lavoro (CGIL)

In its comments, registered at the Secretariat on 4 August 2021, the *Confederazione Generale Italiana Del Lavoro* (CGIL) refers to the above-mentioned two circulars issued in 2018 by the Ministry of Defence and the Ministry of Economy and Finance which provide for burdensome obligations for obtaining prior authorisation for the establishment of military trade unions and maintain the prohibition on their right to strike and on joining other non-military trade union associations by their members. For the CGIL, it is obvious that the provisions of a prior authorisation from the Ministry for the establishment of a trade union association limits the trade union rights of the workers of the *Guardia di Finanza ab origin* and that the procedure as described in the above-mentioned 2018 circulars is not simple nor easy to apply. The CGIL also observes that the draft law currently pending before the Senate also maintains the prohibitions on the members of armed forces to join trade unions other than those specifically established for military personnel, in addition to other limitations, such as the provision that the representation of a single category of military personnel must not exceed 75 percent of the total members of the trade union. This draft law, according to CGIL, even if adopted, cannot satisfy the requirements of the Committee's decision in this case.

According to CGIL, the Government's observations concerning the prohibition of the right to strike imposed on members of the *Guardia di Finanza,* do not stand up to scrutiny, as this body deals mainly -and almost exclusively- with the economic and financial police, consisting of inspections and inquiries in matters of revenue, expenditure and market control. The *Guardia di Finanza* deals with security and public order issues only on an auxiliary manner and the Customs Agency and Entries Agency carry out activities largely superimposed on that of the *Guardia di Finanza.*

Lastly, the CGIL states that the trade unions of the members of the *Guardia di Finanza*, even if formed regularly, are ignored, and excluded from any dialogue and negotiation with the Ministries and the Government maintains a behaviour of total indifference vis-à-vis those unions, refusing even to give an answer to their requests. Therefore, the newly formed unions appear as "empty shells" as they are denied the ability of participating in consultations alongside the military representative bodies, as well that of engaging genuine negotiations with representatives of the ministries on issues relating to working conditions.

6. The Government's response to the comments by the workers' associations

In its responses, registered at the Secretariat on 3 August 2021 and 28 October 2021, the Government states that the comments by the workers' associations are centred around the content of the draft law containing "Rules on the exercise of trade union freedom of the personnel of the Armed Forces and military police, as well as delegation to the Government for regulatory coordination" which is currently being examined by the Senate of Republic. In this regard, the Government points out that it should be noted that during parliamentary proceedings, numerous amendments were presented, which are still under consideration by the Commission for Defence, with a view to addressing, inter alia, the considerations of EUROMIL. The Government emphases the inclusive character of the parliamentary proceedings: extended rounds of hearings have been carried out, in the context of which interested parties, including COCER, military trade unions as well as organisations representing civil workers and other associations, including EUROMIL, were consulted and had already the opportunity to provide their contributions.

The Government states, in particular, that the Ministry of Defence has already ordered the simplification of the procedure concerning the prior consent of the Ministry for the registration of military trade union and brought the deadline by which the consent procedure must be concluded to 90 days, instead of 180 days. According to the Government, the draft law under consideration by the Senate, replaces the "Ministerial prior consent" to the establishment of military trade unions, with a "sort of qualification to exercise trade union activity by registering with a specially constituted register" which comply, according to the Government, with the principles laid down by the Constitutional Court in the light of Article 5 of the Revised Charter. Also, the submission states that the prohibition of joining trade unions other than the military ones responds to the needs of safeguarding the peculiarities of the military structure and the number of military trade unions so far established, is in itself a guarantee of the possibility, for any military personnel, to choose whether and by which association to have their rights safeguarded.

The Government also considers that the draft law aims at the transition from the old system of protection of the rights and interests of military personnel by military representative bodies, to the new system of protection by military trade unions. However, the transition should take place gradually and until the adoption of the draft law, military representative bodies cannot be replaced by military trade unions and should maintain their role and tasks provided by primary-level legislation currently in force.

As to the right to strike, the Government reiterates its position that the right to strike of the military personnel including the *Guardia di Finanza* is incompatible with duties deriving from military status.

7. Assessment on the follow-up

A. Violation of Article 5

The Committee takes note of the information contained in the report submitted by the Government, as well as of the comments made by the different workers' associations and of the reply by the Government to those comments.
The Committee notes with interest that following the decision No. 120/2018 of 11 April 2018 of the Constitutional Court which declared unconstitutional the provisions of the Military Code regarding the prohibition for military personnel to form trade unions, several requests regarding the establishment of military trade union associations have been concluded with a favourable outcome.

Concerning the procedure of "prior consent" of the Minister of Defence, for the establishment of military trade unions which, in the absence of administrative and judicial remedies against arbitrary refusal of registration, lead the Committee to find a violation of Article 5 of the Charter, the Government states that the draft law under examination by the Senate of Republic will replace the "prior consent" with a "sort of qualification to exercise trade union activity by registering with a specially constituted register". However, the report does not sufficiently clarify how the new registration system as laid down in the draft law ensures the right of the members of the *Guardia di Finanza* to establish trade unions without prior authorisation. Currently, in the framework of the registration procedure, the General Command of the *Guardia di Finanza* formulates an opinion concerning the statute of the trade union and transmits it to the Ministry of Economy and Finance which, within a deadline, issues an authorisation or rejection. Nevertheless, the criteria used by the General Command when formulating its opinion, or by the Ministry of Economy and Finance when refusing or accepting the registration are not clarified in the report. Nor the report provides sufficient information on the administrative and judicial remedies at the disposal of trade unions in case of arbitrary refusal of registration.

The Committee requests therefore that the next report provide detailed information on the registration procedure provided by the draft law and explanations on how the new registration system satisfies the requirements of the Committee's decision in the present case, under Article 5 of the Charter. Information is also requested concerning the legislative process and the adoption of the draft law in question.

The Committee also finds that the prohibition imposed on members of the *Guardia di Finanza* to join "other trade unions" under Article 1475(2) of the Military Code is still in force and the draft law under examination in the Senate, in order to ensure "compactness" and "unity" of the military institutions, maintain this prohibition.

In view of the above, the Committee finds that the situation has not been brought into conformity with Article 5 in these respects.

B. Violation of Article 6§2

The Committee takes note of the information submitted by workers' organisations that despite the registration of a number of military trade unions following the decision of the Constitutional Court of 11 April 2018, the authorities continue to communicate exclusively with the representative bodies of the *Guardia di Finanza* which results in a real exclusion of the trade unions from the relevant consultations. It also takes note of the reply of the Ministry of Economy and Finance following a request by a military trade union to participate in the consultation process of a collective agreement, that until the adoption of legislative changes, it will not be possible to allow the trade union to engage in consultations.

The Committee also notes the Government's submission that the transition to a system where military trade unions are involved more efficiently in the negotiations on the terms and

conditions of employment, should take place gradually. For the Government, it is therefore not possible, before the adoption of the draft law, to replace military representative bodies by military trade unions as to their role in the negotiation processes.

The Committee recalls that in its decision on the merits in the present case, it considered, with regard to consultations of the representative bodies of the *Guardia di Finanza,* that it was not shown that this procedure effectively ensures meaningful negotiations as opposed to mere hearing. The Committee takes note that the draft law provides for the attribution of negotiating powers to military trade unions which will be able to take part in consultation processes with the relevant ministries upon the adoption and entry into force of the bill. Nevertheless, the report does not provide information on measures taken or envisaged to be taken pending the adoption of the draft law in question, in order to improve the existing procedure and to ensure meaningful consultations of representative bodies and their efficient involvement in negotiations.

Therefore, the Committee asks that the next report provide information, firstly, regarding the legislative changes and specifically the extent to which they increase the negotiation powers (e.g. with regard to remuneration) of the military trade unions and, secondly, measures taken, pending the adoption of this draft law, in order to improve the negotiation powers of military representative bodies, such as COCER.

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

C. Violation of Article 6§4

The Committee finds that the arguments put forth by the Government in the report, in order to justify an absolute ban on the right to strike by members of the *Guardia di Finanza* were already submitted to the Committee in the framework of the present case and those arguments were already dismissed by the Committee in its decision on the merits of 22 January 2019 which concluded that an absolute prohibition of the right to strike on *Guardia di Finanza* is in violation of Article 6§4 of the Charter for being disproportionate to the legitimate aim pursued by the prohibition.

The Committee notes that not only this absolute prohibition on the right to strike is maintained in the provisions of the Military Code, but the draft law under examination by the Senate also provides for such prohibition.

Therefore, the Committee finds that the situation has not been brought into conformity with Article 6§4 of the Charter in this respect.

PORTUGAL

4th Assessment of the follow-up: European Roma Rights Centre (ERRC) c. 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

The Committee concluded that there was a violation of Article E taken in conjunction with Articles 31§1, 16 and 30 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.

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

Portugal submitted the following new information in its report, while referring to that included in its previous report for Findings 2020.

A. *As regards the continuing precarious housing conditions for a large part of the Roma community, coupled with the lack of sufficient measures to ensure that Roma live in housing conditions that met minimum standards*

The report refers to the National Strategy for the Integration of Roma Communities (ENICC) 2013-2020, revised with an extended term until 2022. It now comprises 8 strategic objectives and 38 concrete and operational measures. The objectives and targets were also adjusted to enhance the positive impact in improving the living conditions of the people and communities involved.

The priorities of the strategy are as follows:

1. The reinforcement of schooling and professional integration;
2. Improvement of housing conditions for Roma people in situations of social exclusion;
3. Recognition and reinforcement of intercultural mediation intervention, improvement of information and knowledge and combating discrimination against Roma people;
4. Reinforce the relevance of the theme of the integration of Roma people in the political and public agenda, as well as the concertation of different sectors in the promotion of this same integration, highlighting, in particular, the central role of the national strategy for the integration of Roma communities in local policies and integration of the most vulnerable Roma populations.

The ENICC review process was based on a wide consultation of various actors, namely with local authorities and other local public services and with civil society entities, at national and local level, with emphasis on associations representing Roma communities. Consultants for the Consultative Council for the Integration of Roma Communities (CONCIG) and the ENICC focal points were consulted.

Housing remains one of the greatest difficulties for many families. In this sense, there is a budget of €700 million to be allocated to the "Housing Access Support Programme" between 2018 and 2024. In parallel, the Housing to Habitat Program was launched in 2018. This program is based on pilot interventions whose anchor is innovative solutions for integrated and participatory management, concertation of objectives and articulation of the actions of the different government areas and entities, public and private, present in the neighbourhoods.

During the exceptional situation of prevention, containment, mitigation and treatment of the epidemiological disease Covid-19, some measures were taken to safeguard the right to housing for all citizens, including judicial protection, in particular:

1. Eviction actions, special eviction procedures and processes for the delivery of leased property were suspended, when the tenant, due to the final court decision to be handed down could be placed in a situation of fragility due to lack of own housing or other compelling social reasons;

2. The following were suspended: a) The effects of denunciations of housing and non-housing lease contracts made by the landlord; b) The forfeiture of housing and non-housing lease agreements, unless the tenant does not object to termination; c) The effects of the revocation of the opposition to the renewal of housing and non-housing lease contracts carried out by the landlord; d) The period indicated in Article 1053 of the Civil Code, if the end of that period occurs during the period of time in which these measures are in force; e) Foreclosure on property that constitutes the defendant's own and permanent home.

3. An exceptional regime was established for situations of delay in the payment of rent due under the terms of urban housing and non-housing lease agreements, within the scope of the Covid-19 pandemic.

B. *As regards the implementation of re-housing programmes by municipalities and the lack of lasting solutions to the deteriorating residential conditions in informal Roma neighbourhoods*

The report states that ENICC is a platform for the development of a broad and articulated intervention, for the elimination of barriers to participation in citizenship and the elimination of stereotypes that are the basis of direct and indirect discrimination due to racial and ethnic origin. The guiding principles are based on interculturalism, non-discrimination, cooperation and participation, territorialisation and gender equality. Education, citizenship, employability, etc., are objectives to which the report refers to, but reproduce largely the information submitted in the former report.

In terms of social protection and in complementarity with the above clarifications, in Portugal there is no ethnic-racial statistical collection of citizens and all quantitative data relating to the identification of Roma individuals only happens because they are the ones to identify themselves. At the end of 2019, an instrument was elaborated to collect quarterly statistical information, to make it possible to obtain appropriate responses that facilitate the inclusion of Roma communities in the areas of education, employment, health and housing.

As regards re-housing programmes, in January 2020, three tenders were launched for the selection of Projects for the Design of Housing Buildings related to the construction of three projects, in a total of 212 houses destined to the allocation in accessible lease, with a total investment of more than €20 million. Moreover, 18 dwellings were rented on an accessible lease in February 2020, with a greater number of dwellings expected to be available from September 2020.

3. Assessment of the follow-up

The Committee takes note of the measures adopted.

A. *As regards the continuing precarious housing conditions for a large part of the Roma community, coupled with the lack of sufficient measures to ensure that Roma live in housing conditions that met minimum standards*

As noted in its previous Findings in 2020, although the authorities further developed and adjusted their policies so as to improve the living conditions of the Roma communities and adopted some measures to mitigate the Covid-19 pandemic, many persons belonging to the Roma communities continue to be subject to direct and indirect discrimination and continue to live at the margins of the society, sometimes in very poor housing conditions. As explained in the report, statistical data are limited, and there are "invisible" Roma families who are not in contact with public institutions not necessarily covered. The number of non-Portuguese Roma present in Portugal is unknown as no such information is collected.

The Committee also refers, following its previous finding, to the 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 Committee therefore considers that not all the Roma community is included, and many are not covered by the strategy created to improve the existing poor housing conditions, and therefore the situation has not been brought into conformity with the Charter.

B. As regards the implementation of re-housing programmes by municipalities and the lack of lasting solutions to the deteriorating residential conditions in informal Roma neighbourhoods

The Committee also acknowledges that the Advisory Committee to the Framework Convention on the Protection of National Minorities raised major concerns in its legal opinion on Portugal of 2020 (https://rm.coe.int/4th-op-portugal-en/1680998662). Due to the location of social housing units outside city centres, to which the report refers, social housing policies has resulted in spatial segregation in different municipalities. Children from these families tend to be all enrolled in the closest school, leading to *de facto* segregated schools. Social housing units tend to get easily overcrowded since housing policies did not take into consideration family expansion. Discrimination and segregation still result from housing policies concerning Roma, and therefore the measures taken have not been sufficient to bring the situation in conformity with the Charter.

Therefore, the Committee reiterates its previous finding and considers that, despite the progress made, the situation has not yet been brought into conformity with Article E in conjunction with Articles 31§1, 16 and 30 of the Charter.