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EUROPEAN SOCIAL CHARTER GOVERNMENTAL COMMITTEE

REPORT CONCERNING CONCLUSIONS 2021 OF THE EUROPEAN SOCIAL CHARTER (revised)

(Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Cyprus, Estonia, Georgia, Hungary, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, the Netherlands, North Macedonia, Norway, Portugal, Romania, the Russian Federation¹, Serbia, the Slovak Republic, Slovenia, Sweden, Türkiye, Ukraine)

*Detailed report of the Governmental Committee
established by Article 27, paragraph 3, of the European Social Charter²*

Written information submitted by States on Conclusions of non-conformity is the responsibility of the States concerned. This information remains either in English or French, as provided by the States.

¹ These conclusions were adopted while the Russian Federation was a Contracting Party to the European Social Charter. The information set out herein reflects that fact. However, subsequently, by decision of 16 March 2022 of the Committee of Ministers of the Council of Europe, on that day the Russian Federation ceased to be a member of the Council of Europe.

² The detailed report and the abridged report are available on www.coe.int/socialcharter.

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I. INTRODUCTION

1. This report is submitted by the Governmental Committee of the European Social Charter and the European Code of Social Security (hereafter the “Governmental Committee”) made up of delegates of each of the forty-three states bound by the 1961 European Social Charter or the European Social Charter (Revised). A representative of the European Trade Union Confederation (ETUC) attended the meetings of the Governmental Committee in a consultative capacity.

2. Since a decision of the Ministers’ Deputies in December 1998, the other signatory states were also invited to attend the meetings of the Governmental Committee (Liechtenstein, Monaco, San Marino and Switzerland).

3. The supervision of the application of the European Social Charter is based on an examination of the national reports submitted at regular intervals by the States Parties. According to Article 23 of the 1961 Charter as amended by the 1991 Protocol, the Party “shall forward copies of its reports [...] to such of its national organisations as are members of the international organisations of employers and trade unions”. Reports are made public on www.coe.int/socialcharter.

4. Responsibility for the examination of state compliance with the Charter lies with the European Committee of Social Rights (Article 25 of the Charter), whose decisions are set out in a volume of “Conclusions”. On the basis of these conclusions and its oral examination, during the meetings, of the follow-up given by the States, the Governmental Committee (Article 27 of the Charter) draws up a report to the Committee of Ministers which may “make to each Contracting Party any necessary recommendations” (Article 29 of the Charter).

5. In accordance with Article 21 of the 1961 Charter as amended by the 1991 Protocol, the national reports on the articles of the Charter relating to health, social security and social protection to be submitted in application of the 1961 European Social Charter and the revised European Social Charter concerned Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Republic of Moldova, Montenegro, the Netherlands, the Republic of North Macedonia, Norway, Poland, Portugal, Romania, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Türkiye, United Kingdom and Ukraine.³ The reports covered the reference period 1 January 2016 – 31 December 2019 and were due by 31 December 2020. It is to be noted that Belgium, Bulgaria, Finland, France, Greece, Ireland, Italy and Portugal had the obligation to submit the simplified report not followed by ECSR’s conclusions. As these countries are bound by the collective complaints procedure concerning the follow-up given to decisions on the merits of collective complaints in which the European Committee of Social Rights has found a violation, the ECSR adopted findings in respect of these eight States.

6. Conclusions 2021 of the European Committee of Social Rights were adopted in January 2022 with respect of Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia-Herzegovina, Cyprus, Estonia, Georgia, Hungary, Latvia, Lithuania, Malta, Moldova, Montenegro, the Netherlands, North Macedonia, Norway, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Sweden, Türkiye and Ukraine.

³ States which ratified the Revised European Social Charter by the end of December 2021: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, the Republic of North Macedonia, the Netherlands, Norway, Portugal, Romania, [the Russian Federation], Serbia, the Slovak Republic, Slovenia, Sweden, Türkiye, and Ukraine. States which ratified the 1961 Charter by the end of December 2021: Croatia, Czech Republic, Denmark, Germany, Iceland, Luxembourg, Poland, Spain, the Kingdom of the Netherlands with respect to Aruba, the Kingdom of the Netherlands with respect to Curaçao, the Kingdom of the Netherlands with respect to Sint Maarten, the Kingdom of the Netherlands with respect to Caribbean part, and United Kingdom.

7. Germany and Iceland did not submit its report in time allowing for its examination by the ECSR. The Governmental Committee recalls that it attaches a great importance to the respect of the deadline by the States Parties.

8. The Governmental Committee took note that Bulgaria ratified 9 additional provisions of the revised Charter, in force since 1 August 2022. It further observed that, following an unprecedented aggression on Ukraine, on 16 March 2022 the Russian Federation was expelled from the Council of Europe with immediate effect and that the Russian member to the ECSR resigned. Accordingly, the Russian cases, selected for the examination by the Governmental Committee in 2022 were not considered. The Governmental Committee agreed by consensus that given the particularly serious circumstances for Ukraine, the follow-up to their respective conclusions of non-conformity was to be suspended.

9. The Governmental Committee held two meetings in 2022 in a hybrid form - in Strasbourg and online via kudo platform (144th Meeting, from 30 May – 3 June 2022, 145th Meeting on 21-25 November 2022) with Mr Joseph FABER (Luxembourg) in the Chair. Since Mr FABER was resigning as of 31 December 2022, in accordance with its Rules of Procedure, the Governmental Committee at its autumn meeting elected for the remaining year of a two-year term (until 31 December 2023) a new member of the Bureau, Mr. Edward BUTTIGIEG from Malta. Subsequently, it elected Mr. Aongus HORGAN (Ireland) as the Chair. The composition of the Bureau was established as follows: Mr. Aongus HORGAN (Ireland) Chair, Ms. Julie GOMIS (France) and Ms. Yvette KALDEN (Netherlands), Vice-Chairs, Ms Velga LAZDINA-ZAKA (Latvia), Member and Mr. Edward BUTTIGIEG (Malta) Member.

10. The state of signatures and ratifications on 1 May 2021 appears in Appendix II to the present report.

II. Examination of Conclusions 2021 of the European Committee of Social Rights

11. The Governmental Committee applied the rules of procedure adopted at its 134th meeting (26 – 30 September 2016). According to the decision taken by the Committee of Ministers at its 1196th meeting on 2 April 2014, the Governmental Committee debated orally only the Conclusions of non-conformity as selected by the European Committee of Social Rights.

12. The Governmental Committee examined the situations not in conformity with the European Social Charter listed in Appendix III to the present report.

A. Proposed recommendations

13. In the 2022 supervisory cycle, the Governmental Committee proposed 12 recommendations concerning Articles 3§2, 3§3, 3§4, 11§1, 11§3, 13§1, 14§1, 23 of the Revised Charter and Article 4 of the 1988 Additional Protocol with respect to the following countries: Azerbaijan, Bosnia and Herzegovina, Denmark, Czech Republic, Hungary, Republic of Moldova, the Netherlands, Romania and Türkiye. It also proposed two grouped recommendations – one concerning the failure to report with respect to Germany and Iceland and one concerning repeated conclusions in which the European Committee of Social Rights could not establish whether the national situation was in conformity with the Charter (Albania, Azerbaijan, Bosnia and Herzegovina, Malta, Moldova, Slovak Republic and Türkiye). These two grouped recommendations were adopted by consensus.

14. In the following cases of non-conformity recommendations were adopted following the rules of procedure: Romania (Article 3§2), Türkiye (Articles 3§3 and 3§4), Azerbaijan (Articles 11§1 and 11§3), Moldova (Articles 11§1 and 11§3), Bosnia and Herzegovina (Article 13§1), Czech Republic (Article 13§1), Hungary (Article 14§1), Denmark (Article 4 of the Additional Protocol) and the Netherlands (Article 23).

15. Recommendations were not carried with respect to Georgia (Articles 11§1, 11§2, 11§3 and 12§1), Romania (Articles 11§1, 11§3 and 13§1), Armenia (Article 12§1), Estonia (Article 12§1), Hungary (Article 12§1), Montenegro (Article 13§1), Azerbaijan (Article 14§1), Latvia (Article 14§1) and Malta (Article 14§1).

B. Examination of remaining conclusions of non-conformity

16. The Governmental Committee examined also other situations of not in conformity with provisions related to the thematic to health, social security and social protection of the European Social Charter, as listed in Appendix II to the present report. No voting on a recommendation was proposed concerning Estonia (Article 3§3), Latvia (Article 12§1), Montenegro (12§1 and 13§4), Romania (Articles 12§1 and 12§3), Armenia (Articles 12§3 and 13§1), Norway (Article 23) and Estonia (Article 30) in the light of the information on the developments in the national situation.

17. The Governmental Committee also took note of the Conclusions deferred for lack of information or because of questions asked for the first time, and invited the States concerned to supply the relevant information in the next report (see Appendix III to the present report for a list of these Conclusions).

18. During its examination, the Governmental Committee took note also of important positive developments in several State Parties (see Appendix IV).

19. The Governmental Committee proposed to the Committee of Ministers to adopt the following Resolutions:

Resolution on the implementation of the European Social Charter during the period 2016-2019 (Conclusions 2021), provisions related to the thematic group “Health, social security and social protection”

*(Adopted by the Committee of Ministers on
at the meeting of the Ministers' Deputies)*

The Committee of Ministers,⁴

Referring to the European Social Charter, in particular to the provisions of Article C of Part IV thereof;

Having regard to Article 28 of the 1961 Charter as amended by the 1991 Protocol;

Considering the reports on the European Social Charter submitted by the Governments of Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Denmark, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Republic of Moldova, Montenegro, the Netherlands with respect to Aruba, the Netherlands with respect to the Caribbean Part, the Netherlands with respect to Curaçao, the Netherlands with respect to Sint Maarten, the Republic of North Macedonia, Poland, Portugal, Romania, Serbia, the Slovak Republic, Spain, Türkiye Ukraine and United Kingdom;

⁴ At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are (1 December 2022):

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Republic of North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Ukraine and United Kingdom.

Having regard to the failure to submit a report by Germany and Iceland;

Considering Conclusions 2021 and Conclusions XXII-2 of the European Committee of Social Rights appointed under Article 25 of the 1961 Charter as amended by the 1991 Protocol;

Following the proposal made by the Governmental Committee established under Article 27 of the 1961 Charter as amended by the 1991 Protocol,

Noting that the Governmental Committee has decided to select, in the light of the conclusions of the European Committee of Social Rights and of the reports of the States Parties and on the basis of social, economic and other policy considerations, the situations which should, in its view, be the subject of recommendations to each State Party;

Draws the attention of the Governments concerned to the Recommendations adopted in respect of Conclusions 2021 and Conclusions XXII-2 of the European Committee of Social Rights, following proposals by the Governmental Committee.

Draft Recommendation RecChS(2023)... on the application of the European Social Charter by Albania, Azerbaijan, Bosnia and Herzegovina, Malta, Moldova, Slovak Republic and Türkiye (period 1 January 2016 to 31 December 2019) (Conclusions 2021)

(Adopted by the Committee of Ministers on ... 2023 at the ... meeting of the Ministers' Deputies)

The Committee of Ministers,⁵

Having regard to the European Social Charter, in particular to the provisions of Article C of Part IV thereof;

Having regard to Article 28 of the 1961 Charter as amended by the 1991 Protocol;

Considering the reports on the European Social Charter submitted by the Governments of Albania, Azerbaijan, Bosnia and Herzegovina, Malta, Moldova, Slovak Republic and Türkiye;

Considering Conclusions 2021 and Conclusions XXIII-2 of the European Committee of Social Rights appointed under Article 25 of the 1961 Charter as amended by the 1991 Protocol;

Having regard to repeated conclusions of the European Committee of Social Rights that it could not establish whether the national situation was in conformity with the Charter under Article 3.3 (for Malta and Moldova) Article 11.3 (for Albania, Azerbaijan and Slovak Republic), Article 13.4 (for Türkiye) and Article 14.2 (for Bosnia and Herzegovina and Türkiye), given a lack of sufficient information despite the Committee's repeated requests;

Having regard to the failure to submit within the deadline set by the Governmental Committee the written response on the developments in the national situation and on measures taken or envisaged to bring it into conformity with the Charter or the 1961 Charter, as applicable;

⁵ in its composition restricted to the Representatives of States Parties to the European Social Charter or the Revised European Social Charter.

Building upon the Declaration on compliance with commitments accepted by member States of the Council of Europe, adopted by the Committee of Ministers on 10 November 1994 at its 95th Session, and in conformity with each organ's statutory mandate;

Stressing that it is a primary responsibility of any member State having violated statutory obligations to take steps toward solving the situation;

Recalling that written response in a timely manner is essential to the fulfillment of its rule by the Governmental Committee, in line with Article 27.3 of 1961 Charter, namely to prepare the decisions of the Committee of Ministers in the light of the reports of the ECSR and of the Contracting Parties, giving reasons for its choice, on the basis of social, economic and other policy considerations;

Following a proposal by the Governmental Committee,

Recommends that Albania, Azerbaijan, Bosnia and Herzegovina, Malta, Moldova, Slovak Republic and Türkiye:

- comply with their reporting obligation towards the European Committee of Social Rights,
- respect the calls for submission of information within a deadline set by the Governmental Committee with a view to ensure effective discussions at its plenary sessions,
- invite the Contracting Parties to set effective mechanism at the domestic level, as deemed necessary for ensuring comprehensiveness and timely submission of reports to the European Committee of Social Rights, as well as of responses requested by the Governmental Committee in the framework of the follow-up to the conclusions of the European Committee of Social Rights.

III. EXAMINATION BY ARTICLE 6

REVISED EUROPEAN SOCIAL CHARTER

Article 3§2 - to issue safety and health regulations, in consultation with employers' and workers' organisations

20. The Secretariat recalled that States Parties' first obligation under Article 3 is to ensure the right to safe and healthy working standards of the highest possible level. Under §2, this obligation entails issuing safety and health regulations providing for preventive and protective measures against workplace risks. The Charter does not actually define the risks to be regulated. Supervision takes an indirect form, referring to international technical occupational health and safety standards such as the ILO Conventions and European Union Directives on health and safety at work.

21. Domestic law must include framework legislation – often the Labour Code – setting out employers' responsibilities and the workers' rights and duties as well as specific regulations. In view of the particularly variable nature of the subject matter in the light of technological, ergonomic and medical advances, existing regulations must be geared to new circumstances where the rules prove to be out of keeping with the situation.

⁶ State Parties in English alphabetic order.

22. All economic sectors must be covered by the framework law and the regulations. It is not necessary for a specific text to be adopted for each activity or sector, but the wording of texts should be sufficiently precise to allow their effective application in all sectors, taking particular account of the scale of or degree of danger in each sector. Sectors must be covered in their entirety and all companies must be covered regardless of the number of employees.

23. No workplace, even if habited, can be “exempted” from the application of health and safety rules. Workers employed on residential premises, i.e. domestic staff and home workers, must therefore be covered but the rules may be adapted to the type of activity and the relatively risk-free nature of these workers’ occupations and be worded in general terms.

24. Independent workers who intervene in several workplaces must suffer no discrimination in occupational safety and health matters, as compared to wage-earning workers or civil servants, and hence must also be covered by the regulations.

25. Regulations must be drawn up in consultation with employers’ and workers’ organisations.

RESC 3§2 ROMANIA

26. The ECSR concluded that the situation in Romania was not in conformity with Article 3§2 of the Charter on the ground that it has not been established that domestic workers are protected by occupational health and safety regulations.

27. The Secretariat recalled that the ECSR previously found the situation not to be in conformity in this respect because it had not been established that the domestic workers were covered by occupational health and safety legislation (Conclusions 2017). The ECSR noted that the representative of the Government informed the Governmental Committee that domestic workers were exempt from the provisions of Law on Occupational Health, since this category of workers was not covered by the provisions of the Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety of workers at work. However, the representative of the Government further stated that individuals employing housekeepers or nannies have a legal obligation to conclude an individual labour contract with the workers and thus such workers are automatically covered by the security and safety at work legislation. The Government was invited to provide complete and accurate information on the situation in the next report, in particular whether Article 5 of the Law on Occupational Health exclude domestic workers from its scope and if so, was there other legislation which guarantees their health and safety at work and how is was monitored in practice.

28. The ECSR observed that the information provided in the report was not sufficient for it to conclude that domestic workers are covered by occupational health and safety legislation. The ECSR therefore reiterated its conclusion of non-conformity with Article 3§2 of the Charter on this point.

29. The Secretariat explained that it was a long-standing non-conformity, dating back to 2003, when the ECSR concluded that the situation in Romania was not in conformity with Article 3§2 of the Revised Charter because self-employed workers and domestic staff were not covered by the occupational health and safety regulations. The problem persisted and in Conclusions 2007, 2009, 2013 and 2017 the ECSR remained particularly concerned that domestic workers were not covered by occupational health and safety regulations. The GC examined the situation in 2008 (in the follow-up to the 2007 conclusion), noting information provided and decided to await the next assessment of the ECSR. As in 2009 the conclusion was still negative, the GC invited the government of Romania in 2010 to bring the situation into conformity with Article 3§2 of the Revised Charter. In 2014, Romania provided information on legislative amendments but no decision was taken by the GC. The situation remains unchanged.

30. The representative of Romania presented following information:

“Law No 319/2006 on safety and health at work, as amended, applies to employers, workers and workers’ representatives. According to Article 5, the worker is defined as a person employed by an

employer in accordance with the law, including students, trainees, apprentices and other participants in the work process, with the exception of persons performing domestic activities.

Therefore, if these workers are employed directly by natural persons, without concluding an individual employment contract or a contract for the provision of services, the provisions of the Law on Safety and Health at Work do not apply to them.

Regarding the contract for the provision of services, it is concluded between two parties, namely, the service provider, the one who undertakes to provide certain services and for the recipient, in return for a remuneration.

The service provider can be a company, legal person, authorized natural person, association or natural person. The recipient or beneficiary can be a natural person, a legal person or an authorized natural person.

According to the Government Decision no. 1425/2006 for the approval of the Methodological Norms for the application of the provisions of the Law on Safety and Health at Work, for workers carrying out activities on the basis of a contract for the provision of services, the employer receiving the services shall ensure the training of the respective workers on the specific activities, the risks for their safety and health, as well as the prevention and protection measures and activities.

The prevention and protection activities shall be laid down in the form of occupational safety and health clauses when this type of contracts are concluded.

Another situation is that of persons who carry out domestic activities as workers for employers with activity in the field of domestic work. In this case the occupational safety and health provisions are provided by these employers, according to the provisions of the Occupational Safety and Health Law.

In April 2022, Law No 111 on the regulation of the activity of the domestic provider came into force, which regulates how individuals can carry out domestic activities in return for remuneration in the form of domestic activity vouchers.

The law defines domestic activity as occasional, unskilled activity carried out by a domestic worker in relation to the household of a family or a single person as a domestic beneficiary; domestic activity is not carried out for commercial purposes and is not carried out for the benefit of third parties.

The activity includes: cleaning/hygienic services, laundry/ironing services, tailoring services, food preparation services, personal care services, feeding and supervision of the dependent household recipient.

Thus, people interested in carrying out domestic work will be able to perform such work in legal conditions, benefiting from a fair remuneration for the work performed and insurance in the public social security system.

At the same time, the law establishes rights and obligations for both the domestic provider and the domestic beneficiary. Among these rights and obligations we mention the following:

- The domestic worker has the right to be verbally informed about the use of the various utensils and/or appliances provided by the beneficiary for carrying out the domestic activity, prior to the performance of the activity, and has the obligation to make appropriate use of the utensils and/or appliances necessary for carrying out his own domestic activity or provided by the domestic beneficiary.

- The domestic service beneficiary has the obligation to ensure appropriate conditions for carrying out domestic activities and to inform the domestic workers about the proper use of utensils and/or appliances, if he makes them available for domestic activities;

Detailed information on the provisions of this law will be provided in the next report”.

31. The Chair noted that the information provided did not contain information as regards the coverage by occupational health and safety regulations.

32. The representative of Romania confirmed that the situation has not changed, albeit the new law was a step forward.

33. The representative of the UK pointed to the fact that it is disproportionate to cover the domestic workers with the criminal health and safety regulations. The Secretariat pointed to the fact that the ECSR standard is not about the criminal liability nor the coverage on the level equal with professional employer. The conformity may be ensured by some special regimes, awareness raising measures, insurances and specific regulation which would cover the health and safety.

34. The representative of France underlined the importance of the matter and, acknowledging the specific national contest, stressed that it was necessary to keep the standard of the health and safety. She suggested that it might be advisable to open a discussion at the Committee of Ministers level on the standard of the Charter as regards the health and safety of the workers.

35. The Chair accepted the call for application of the working method, inviting the State Parties to look at a recommendation in the light of the change of the practice in this respect. He suggested to recommend to Romania to examine how domestic servants could be protected by health and safety regulations. The Secretariat indicated that when drafting a recommendation, a reference to the new law could be made in the text.

36. The representative of Romania admitted that a recommendation may be a useful tool to induce a change.

37. Accordingly, the Governmental Committee proceeded to vote on a recommendation in this regard, which was carried (24 in favour, 4 against and 7 abstentions). The Secretariat was tasked with drafting the text of the recommendation in consultation with the respondent state. The text would be presented for information at the next meeting.

Article 3§3 - to provide for the enforcement of such regulations by measures of supervision

38. The Secretariat explained that the aim of Article 3§3 is to guarantee the effective implementation of the right to safety and health at work. This implies monitoring development of the number of injuries at work and occupational diseases, checking the application of regulations and consulting employers' and workers' organisations on this subject. The enforcement of safety and health regulations by measures of supervision is carried out in light of Part III Article A§4 of the Charter, whereby States Parties shall maintain a system of labour inspection appropriate to national conditions.

RESC 3§3 ESTONIA

39. The ECSR concluded that the situation in Estonia was not in conformity with Article 3§3 of the Charter on the ground that the labour inspection system concerning occupational health and safety, was ineffective.

40. The ECSR noted information provided on activities of the labour inspections, namely that number of workers covered by the inspections and the number of visits increased. The number of labour inspectors was increasing until 2017. It also acknowledged that a new information system, operational since the first quarter of 2020 allowing Labour Inspectorate to cover more companies and workers with the inspections and helping Labour Inspectorate to communicate with companies faster and more effectively. Further, the ECSR noted that penalisation based on misdemeanour proceedings has never been the aim of the Labour Inspectorate, instead, fines are imposed if the violation has been ongoing for a long period of time, affects many employees, or has put to risk the life or health of a person and it is no longer possible to eliminate the violation.

41. Overall, the ECSR considered that given that the law entrusts the investigation of most accidents at work to employers, the labour inspection system is not efficient with regard to Article 3§3 of the Charter. It noted that in 2019, only 58.5% of all occupational accidents were reported to the Labour Inspectorate.

42. As regards the historic development, the Secretariat recalled that in 2005 and 2013 the ECSR deferred its conclusions, considering that it lacked essential information for the assessment of the situation. In particular it reiterated requests for information on steps taken to stop the decrease in the number of workers covered by inspection visits. In Conclusions 2017 it concluded that the situation in Estonia was not in conformity with Article 3§3 of the Charter on the ground that the labour inspection system, insofar as it concerns occupational health and safety, was inefficient. The Governmental Committee has not yet examined the case.

43. The representative of Estonia presented the following information:

“An effective labour inspection system is a priority for the Ministry of Social Affairs as well as for the Labour Inspectorate. The need to provide efficient state supervision to ensure a healthy working environment for employees and prevent occupational accidents is highlighted in the Welfare Development Plan – a strategy which sets out labour market, including occupational health and safety policy objectives in Estonia.

The Committee asked for information on measures taken or envisaged to ensure the efficient investigation of all minor accidents at work in Estonia. Also, whether the decrease, in 2019, in the number of workers covered by the inspections, in the number of inspectors, in the number of inspection visits and in the average number of labour inspectors per 10,000 employees, is an outcome of the 2019 amendments to the Occupational Health and Safety Act which provide that an employer is not required to report minor accidents to the Labour Inspectorate.

Firstly, we would like to point out, that according to the Estonian Occupational Health and Safety Act, the employer has the primary obligation to investigate an occupational accident. The employer has an obligation to investigate all occupational accidents, including minor accidents.

The Labour Inspectorate has the right to carry out inspections during which an inspector monitors whether the accidents have been investigated by the employer. The main purpose of the investigation by the Labour Inspectorate is to inspect whether the investigation done by the employer and the conclusions drawn from it have been sufficient to prevent new and similar accidents. The Labour Inspectorate applies supervision and sanction measures if the inspector finds that the employer has not investigated occupational accidents according to the law. According to the Occupational Health and Safety Act, the Labour Inspectorate has a right to impose a fine up to 32 000 euros for failure to investigate occupational accidents.

The Labour Inspectorate investigates all fatal accidents and occupational accidents which have resulted in serious damage to health due to disregard for occupational health and safety requirements. All other accidents are investigated if the Labour Inspectorate decides that it is necessary. The Labour Inspectorate has also amended the rules of procedure of the Labour Inspectorate for handling occupational accidents and formulated clear criteria to ensure that all accidents that need to be investigated are investigated.

The measures taken to reduce the number of occupational accidents and prevent recurrences are not limited to the investigation of accidents by the Labour Inspectorate. The Labour Inspectorate, with the help of labour inspector-investigators, also carries out separate targeted inspections, focusing on the employers' systems for preventing occupational accidents and dealing with occupational accidents in the company, to better ensure employers' actions to prevent occupational accidents. During such targeted inspections, the labour inspector does not investigate a specific accident but monitors whether the measures indicated in the occupational accidents investigation report to prevent similar accidents are being implemented or whether the investigation has been carried out properly by the employer.

In addition, the Labour Inspectorate analyses the occupational accident reports submitted to the Labour Inspectorate by the employer and if it is found that no risk assessment has been carried out in the company, the state supervision is carried out in this company. The Labour Inspectorate has an overview of the companies that have not carried out risk assessments, because all employers have an obligation to send it to the Labour Inspectorate.

We would also like to clarify that the decrease in the number of inspections in 2019, is not the result of the amendments to the Occupational Health and safety Act regarding the reporting of occupational accidents to the Labour Inspectorate. In 2019, the Labour Inspectorate focused more on small enterprises and enterprises with more than one structural unit across Estonia, which means that only one inspection was counted in the statistics even though several workplaces were investigated.

We would like to emphasize that the Labour Inspectorate has put more focus on increasing the quality of inspections during the reporting period. The organisation of inspections has changed, for example, sector-based teams of inspectors were formed to allow inspectors to specialize in a specific area of inspections (for example construction sector, etc.) and therefore increase the quality of inspections. Also, the advisory component was added to the inspection process, which means that inspectors are focusing on supervision as well as advising the employer on how to improve the working environment during the visits to workplaces.

In addition to state supervision, the Labour Inspectorate provides consultation services for employers and employees, which is also an important method to improve working environments in companies and prevent occupational accidents.

To increase the efficiency of the Labour Inspectorate, a new information system has been developed by the Labour Inspectorate, which allows to increase the efficiency of supervision, allows for automated supervision, and saves time. The new system allows the Labour Inspectorate to cover more companies and workers with the inspections and helps the Labour Inspectorate to communicate with companies faster and more effectively.

Also, the European Social Fund resources are used to increase the Labour Inspectorate ability to carry out state supervision and consultation services for employers and employees during the new financing period”.

44. The Chair pointed to the fact that the problem is longstanding, dating back to 2005, however, no delegation requested application of the working method.

45. The Governmental Committee invited the authorities to bring the situation into conformity with the Charter and decided to await the next assessment by the ECSR.

RESC 3§3 TÜRKIYE

46. The ECSR concluded that the situation in Türkiye was not in conformity with Article 3§3 of the Charter on the grounds that:

- accidents at work and occupational diseases are not monitored effectively;
- the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.

47. As regards the first ground, the ECSR considered that despite the decrease in the number of fatal accidents at work during the reference period, the standardised incidence rates of such accidents remained extremely high. It also noted the significant increase in the number of non-fatal accidents (an increase of almost 48% between 2016 and 2019). The ECSR therefore found that the situation in Türkiye was not in conformity with Article 3§3 of the Charter on the ground that accidents at work and occupational diseases were not monitored effectively. The ECSR took note during this assessment of various activities carried out by the Ministry of Family, Labour and Social Services (“Occupational Health and Safety Management System – for Small and Medium-Sized Enterprises”, informative seminars, training, periodic controls of work equipment and field visits), as well as of amendment of the Regulation of Occupational Health and Safety in Construction Works and “Occupational Exposure Data Package” software for early detection of occupational exposures and to increase occupational disease awareness.

48. As regards the labour inspectors, the ECSR noted that their number further decreased, together with the number of inspection visits, whereas, according to the figures published by the World Bank, the total labour force in Türkiye increased. The ECSR thus maintained its previous assessment that

the labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.

49. The Secretariat recalled that the situation led previously to a deferral in 2009 pending request of comprehensive information. In 2013 the ECSR concluded that the situation was not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents were inadequate. In Conclusions 2017, the ECSR concluded on non-conformity with Article 3§3 of the Charter on the grounds that not only measures to reduce the number of accidents at work were insufficient, but also that the labour inspection system did not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation. The situation remained unchanged and in 2021 the ECSR reiterated its conclusion on both aspects. Information was provided in writing in 2014 but the Governmental Committee did not examine the case.

50. The representative of Türkiye presented the following information:

"In Türkiye, several activities are carried out in terms of enforcement of safety and health at work. Some of them are given below. Activities carried out between 2016-2019 specific to the construction sector: The "Occupational Health and Safety Management System - for Small and Medium-Sized enterprises (SME) - Construction Sector" Standard (TS 13739) prepared for construction workplaces within the scope of the protocol signed with Turkish Standards Institution (TSI) was accepted at the Technical Board on 6 February 2017, and entered into force.

Vision Zero: "Vision Zero - Practical Solutions in the Construction Sector" seminar was held in Istanbul on 23-24 March 2017. On 13 May 2017. Within the scope of Vision Zero, one-day informative seminars and field visits were held in 33 provinces for employers, building control firms and OHS professionals, with the participation of senior officials of the Ministry of Labour and Social Security (MoLSS). Safe Construction Symposiums (2017-2018): In 2017, technical information was shared in Adana, Bursa, Samsun and İzmir in order to prevent work accidents and losses due to these accidents. At the symposiums, experts of major projects provided support and sample installations of relevant equipment were carried out. In 2018, occupational health and safety symposiums were held in cooperation with the Gümüşhane Associations Federation (GÜDEF) in Ankara and Tokat Chamber of Commerce and Industry (TSO) in Tokat, respectively. Regulation Amending the Regulation of Occupational Health and Safety in Construction Works: The Regulation Amending the Regulation of Occupational Health and Safety in Construction Works was published in the Official Gazette dated 31/12/2018 and numbered 30642 (4). As result, temporary edge protection systems, pillared working platforms, safety nets, lifelines conforming to the standards and minimum health and safety conditions regarding installation, use and disassembly have been regulated.

Website Regarding Safe Construction Works: The webpage (www.guvenliinfaat.gov.tr) has been launched in order to improve the technical know-how for the sector, to disseminate good practices and to effectively announce the activities to be carried out. In addition to the information given about many activities related to the sector, especially working at height, excavation works, demolition works, electricity, work equipment, fire and PPE use, guides, information cards, posters, brochures, etc. are included in the website. Information Seminars on Work Safely at Height Campaign: Cooperation Protocol on Occupational Health and Safety was signed between the MoFLSS and the Union of Construction Industry Employers (INTES) on 16/1/2019. The aim of the protocol is to carry out the works together in order to prevent falls from heights and losses due to these accidents. In this context, information seminars on Work Safely at Height Campaign were organized in 3 provinces, and technical details of work equipment commonly used in construction and information on safe working methods were shared with the parties. Working at Height Trainings for Construction Sector Employees: In order to prevent accidents from falling from height, which is the biggest problem of the construction sector, draft legislation has been prepared to determine the procedures and principles of trainings on working at height. In the field of OHS, studies are carried out to improve the service standards of individuals and institutions authorized by the MoLSS. In this context, trainings are organized at Occupational Health and Safety Research and Development

Institute (İSGÜM) that is a research and development institute affiliated to MoLSS, in the field of OHS, including occupational hygiene and occupational health. On the one hand, basic training has been obligatory for those who carry out periodic controls of work equipment. In addition, these people are registered and followed up through EKİPNET, which is an e-government application. It is also planned that equipment-based training will be made compulsory in the upcoming period.

On the other hand, active use of information technologies has also been prioritized, and efforts are carried out to prevent work accidents and occupational diseases by benefiting from digital transformation applications. The "Occupational Health and Safety Information Management System (İBYS)" has been initiated to guide the operations by creating the OHS risk map of Türkiye. A cooperation protocol was signed between the "Association of Work and Occupational Diseases Specialists" (İMUD) and the Ministry of Labor and Social Security on 04.10.2018. Within the protocol, it is aimed to:

- Organize training programs for DG OHS staff on occupational diseases and work-related diseases,*
- Plan, implement and carry out scientific studies in the field of work-related diseases and occupational diseases, prepare joint reports, organize study visits to workplaces,*
- Prepare and publish materials related to the activity subjects, to ensure and distribute them when necessary. Occupational Diseases Congress was held on 04-06 October 2018. Rotations of Occupational Diseases Specialization students in Occupational Health and Safety Research and Development Institute (İSGÜM) continue and investigation and research projects are carried out.*

The "Project for Improving Occupational Health and Safety in Workplaces in Textile, Leather, Furniture, Food Products and Beverage Manufacturing and Chemical Products Manufacturing Sectors (ISGIP 2)" was carried out during the period between 2015-2017. Within the scope of the project, activities such as the development of occupational health and safety management system, risk assessment, performance monitoring studies, preparation of emergency plans were carried out in 20 workplaces in 5 provinces. At the end of the project, 14 guides for the relevant sectors were prepared and published. "OHS Research Project (ISGAP)" was carried out during the period between 2016-2018. Within the scope of the project, it was aimed to analyze the current situation of ceramic, greenhouse, plastic, paint production, forest industry sectors, to improve the occupational health and safety conditions of employees in those sectors, to prevent and early detection of work accidents, occupational diseases, to increase OHS awareness and to contribute to the creation of OHS culture. The "Development of National Pneumoconiosis Diagnosis, Detection, Notification and Monitoring System Project (Hard Coal and Lignite Mining)" was carried out during the period between 2019-2020. As part of the project, the "Pneumoconiosis Data Set Workshop" was held on June 25, 2019. The "Pneumoconiosis Data Set", which is planned to be integrated into the Occupational Health and Safety Information Management System (İBYS) has been finalized. Within the Technical Assistance component of "Improving Occupational Health and Safety Especially in Mining Sector Project", health surveillance of 10.000 employees in the mining sector will be made within the framework of specific standards and regulations. Trainings on occupational diseases organized by the DG OHS during the reporting period:

- The ILO International Classification of Radiographs of Pneumoconioses Training (every year)*
- Introduction to Ergonomics Training for Workplace Physicians (26.06.2019)*
- Within the scope of ISGAP (Occupational Health and Safety Research Project) (in November 2018), trainings given to occupational health and safety professionals in 5 sectors (Greenhouse Growing Sector, Plastic Products Manufacturing Sector, Paint Production Sector, Ceramic Sector, Wood Products Manufacturing Sector)*

In Türkiye, the diagnosis of an occupational disease can be made by all physicians serving in the 1st and 2nd step health units. After the diagnosis of an occupational disease, the patient should be referred to hospitals authorized to issue a medical board report by the Ministry of Health and a health board report should be issued in order to transfer the information to the social security system and to determine whether the disease causes loss of earning power in the profession. Information on occupational diseases has been collected monthly from the hospitals that have issued a health board report on occupational disease diagnoses since 2012. In these hospitals, 4,316 occupational diseases were diagnosed and a health board report was prepared in 2016, 4,855 in 2017, 5,573 in 2018 and 5,952 in 2019. No fatal occupational disease cases have reported during the reporting

period. OHS inspections are carried out as scheduled and non-scheduled by the Directorate of Inspection and Guidance Board, taking into account the statistical data of previous years, national policies and needs, and the risks and priorities of working life and resources. Scheduled inspections that require close cooperation with workers and employers, as well as with relevant institutions and organizations are executed as a result of evaluating and prioritizing problems in working life, in order to audit the implementation of all or part of the provisions of the legislation related to working life in the specified areas or sectors or in workplaces determined by targeting a specific risk group.

Non-scheduled inspections, on the other hand, are carried out upon denunciation, complaint or request received by the Directorate of Inspection and Guidance Board. In this context, a number of 40.828 inspections were carried out in terms of occupational health and safety in the period of 01.01.2016 - 31.12.2019, reaching 3.595.606 workers. As a result of the inspections carried out, it was decided to suspend the work in 1.834 workplaces and it was proposed to impose an administrative fine of 136.969.231 TL for 10.530 workplaces. Labour inspection activities in Türkiye are carried out by the labour inspectors of the Ministry of Labour and Social Security in accordance with the ILO Labor Inspection Convention in Industry and Commerce (No. 81), Presidential Decree No. 1, Labor Law No. 4857, Occupational Health and Safety Law No. 6331 and other labour legislation provisions. In the period of 01.01.2016-31.12.2019, the Ministry of Labour and Social Security reached a total of 3.595.606 workers by conducting a total of 40.828 inspections in terms of occupational health and safety. As a result of the inspections carried out, it was decided to suspend the work in 1,834 workplaces and an administrative fine of 136,969,231 TL was recommended to be imposed for 10,530 workplaces. By the way, a commission has been established for the revision of the Regulation of Fighting Dust and it continues to work. The table of the distribution of work accidents in our country according to the causes of accidents in the 2020 Social Security Institution statistics is given below:

The Incident that Deviates the Event from its Normal Course and Caused the Accident Number of Work Accidents Out of control (full or partial) of a machine, transport or processing equipment, hand tool, object, animal 54.283 Slip or stumble – falling, falling of persons 54.017 Body movement without physical pressure (usually leading to an external injury) 32.704 Breakage, explosion, separation, slip, fall, collapse of the Material Vehicle 28.189 Body movement with or under physical pressure (usually leading to an external injury) 16.708 Overflow, tipping, seepage, evaporation, emission drift 14.457 Electrical problems, explosion, deviation due to fire 3.518 Shock, fear, brutality, aggression, threatening 3.415 Other Deviations not listed in this classification 177.314 Total 384.605.

The purpose of the Occupational Health and Safety Law No. 6331 is to regulate the duties, authorities, responsibilities, rights and obligations of employers and employees in order to ensure occupational health and safety at workplaces and to improve current health and safety conditions. In this respect, the Law imposes obligations on the prevention of work accidents and occupational diseases and taking measures to protect against them. The main duties of occupational health and safety professionals are to ensure that measures are taken to ensure occupational health and safety in their workplaces by following the work environment through measurement, analysis and risk assessment; employees through health surveillance in order to maintain a healthy and safe working environment.

In case of contrary situations, if necessary, the Occupational health and safety professionals inform the Ministry about the situation. When evaluated in this sense, it is clear that the primary duty of OHS professionals is shaped on the basis of guidance and consultancy. It is the employer's responsibility to take all kinds of measures regarding occupational health and safety, and this is clearly stated in the Law. Almost all of the responsibilities defined in the Occupational Health and Safety Law No. 6331 in order to ensure health and safety in the workplace (preparing the risk assessment plan, preparing the emergency plan, performing the health surveillance) must be carried out by the employer, with support when necessary.

These responsibilities are audited within the scope of Article 24 of the Law and administrative sanctions are imposed on the employer for responsibilities not fulfilled within the scope of Article 26. Legal definition of occupational disease is expressed in the Occupational Health and Safety Law No. 6331 as "Disease resulting from exposure to occupational risks" and in the Social Insurance and

General Health Insurance Law No. 5510 as disease if it occurs due to a repetitive reason due to the nature of the work that the insured works or does or disease is a temporary or permanent illness, physical or mental disability that the insured suffers due to the conditions of the work. In our country, the number of insured persons with occupational diseases diagnosed according to the 2020 SSI statistics is 909, and the distribution of the occupational diseases diagnosed in the 2020 SSI statistics according to the diagnosis group is given in the table below:

Diagnostic Subgroup Number of Occupational Diseases

Respiratory System Diseases 167

Number of Insured Persons Diagnosed with Occupational Disease After Their Insurance Ends 152

Musculoskeletal and Connective Tissue Diseases 54

Ear and Mastoid Protrusion Diseases 34

Nervous System Diseases 26

Diseases of the Skin and Subcutaneous Tissue 4

Some Infectious and Parasitic Diseases 4

Diseases of the Eye and Adnexa 2

Malignant and Neoplasms 1

Mental and Behavioral Disorders 1

Another Disease Not On The List 463

Unknown 1

Diseases of the Blood and Blood-Making Organs and Some Disorders of the Immune System 0

Circulatory System Diseases 0

Digestive System Diseases 0

Genitourinary System Diseases 0

The provision regarding health surveillance in Article 15 of the Occupational Health and Safety Law No. 6331 is an important part of basic occupational health services. In order to protect and improve the health of employees with health surveillance, medical examinations and examinations for the prevention of occupational diseases and all health-protective studies, including recording, evaluation and notification of all studies, first aid, emergency treatment, rehabilitation and health promotion are provided. One of the studies carried out in this direction, "Regulation on the Procedures and Principles of Medical Examinations for the Health Surveillance of Employees" was prepared together with the Ministry of Health and published in the Official Gazette dated 20.01.2022 and numbered 31725. Among the practices and studies on occupational health services, the Ministry of Health has started to establish a monitoring management system for national occupational health services. This system will be compatible with the OHS-CLERK system by the support of the General Directorate of Occupational Health and Safety of the Ministry of Labour and Social Security.

"National Pneumoconiosis Diagnosis, Detection, Notification and Monitoring System (UPTATBIS) 2021-2022" project Hard Coal and Lignite Mining was carried out. In the aforementioned project, the book "Pneumoconiosis in Working Life" was prepared by holding pneumoconiosis problems and legislative development meetings and pneumoconiosis advanced training. In addition, health records regarding pneumoconiosis at workplaces were examined. The General Directorate of Occupational Health and Safety has prepared and carried out several projects for the prevention of occupational diseases and the measures for occupational diseases. Guides, books, brochures, checklists, posters, algorithms and similar documents were prepared and placed on the websites (<https://www.csqb.gov.tr/isqum/contents/hizlierisim/isqdokumanlari> and <https://www.csqb.gov.tr/isqgm/hizmetlerimiz/yayinlar/>). Training modules on occupational diseases and prevention and protection measures from occupational diseases were prepared and trainings were organized. Training, consultancy and guidance services are provided to official institutions and organizations, workplaces, OHS professionals, professional chambers, employee and employer institutions, organizations, trade unions and NGOs and etc. about occupational diseases and for the prevention and protection measures from occupational diseases. In addition, joint activities are carried out in cooperation with these institutions and organizations. The main projects and studies carried out for the most common occupational diseases and sectors with occupational diseases in our country are listed below: - Occupational Health and Safety Research Project (İSGAP): Within the scope of this project several activities performed such as field research, preliminary

examination, health surveys, health surveillance, occupational hygiene measures, listing risks, examination of personal protective equipment, educational activity, preparing OHS guides for the sectors and publishing activities for employees of ceramic manufacturing, paint manufacturing, plastic manufacturing, greenhouse cultivation, furniture and forest industries. - Especially in the Mining Sector, within the scope of "Improving Occupational Health and Safety Conditions Project (MISGEP)", health surveillance activity is carried out. - In the Field of Occupational Health; Pulmonary Function Test Evaluation Training, Lung Radiography Evaluation Training and pneumoconiosis awareness business and operations training have been carried out.

- The General Directorate of Occupational Health and Safety of the Ministry of Labour and Social Security has made contribution for "the Determination of the methodology and Establishment of the Implementation Procedures and Principles in order to Combat with Infectious Diseases by taking measures in Ventilation-Heating/Cooling and Sanitary installation in Public Buildings Project" which is carried out by the General Directorate of Construction Affairs of the Ministry of Environment, Urbanization and Climate Change. Regarding the "Occupational Health and Safety Management System for Small and Medium-Sized Enterprises" mentioned in our previous report; The Occupational Health and Safety Management System (OHS-MS) Standard No. TS 13739" was published by the Turkish Standards Institute in order to define the occupational health and safety management system requirements of small and medium-sized workplaces in the construction sector and is valid for all workplaces in that sector. All requirements in this Occupational Health and Safety Management System (OHS-MS) Standard are intended to be incorporated into any Occupational Health and Safety Management System (OHS-MS). Implementation criteria is changing depending on some factors such as OHS policy of the enterprise, the nature of the work and risks and complexity of their activities. The Committee notes that despite the decrease in the number of fatal accidents at work during the reference period, the significant increase in the number of non-fatal accidents. We believe that the reason for this is the increase in sanctions and awareness along with the law, more effective reporting and follow-up of accidents. In other words, the pre-law period was insufficient to depict the current situation of occupational accidents. As it is known, the OSH law put in force on the date of 30 June 2012. It takes time to see the full effect of the law. During this time, we started to keep our statistics more effective in ESAW standards. This is the reason for the increase in the number of accidents. Already in recent years, when we look at the rate of occupational accidents per hundred thousand employees, it is seen that the rate of increase in accidents has decreased and even started to decrease. The increase in the number of work accidents after the law is, in short, due to more effective notifications between 2016 and 2019. The number of occupational accidents seems to have increased compared to the pre-law period, as occupational accidents were recorded and followed with the implementation of the law. More effective notifications enable to determine priorities in order to take necessary measurements to prevent these accidents. By the way, the rate of increase has decreased in recent years. In fact, the rate of occupational accidents in one hundred thousand employees has been fixed and has taken a downward trend as of 2019. Considering that the statistics now show the current situation, the effect of the studies will be seen more clearly in near future".

51. The representatives of France stated that the Turkish authorities would have an enhanced opportunity to improve their system of protection of workers with effective inspections system, if a recommendation to this end is adopted.

52. Accordingly, the Governmental Committee proceeded to vote on a recommendation with respect to the first ground of non-conformity, which was not carried (with 3 votes in favour, 1 against and 30 abstentions).

53. The representative of France, supported by ETUC indicated that no vote on a warning was not taken with respect to the UK case, hence states should be treated equally. However, the simply change in relation to decision making, should not be the only method to achieve the tasks of the Committee and the objectives of the reform. If the Governmental Committee intends to use the recommendations as a new tool, it must also take the responsibility for adopting them and not giving

30 abstentions. The representative of ETUC wished to put into record that in such case, the Committee should continue to issue warnings, even if they are not the tool for a follow-up.

54. Subsequently, it proceeded to vote on a recommendation for the second ground of non-conformity, which was carried (24 votes in favour, 2 against and 10 abstentions).

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55. The Committee concludes that the situation in Türkiye is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

56. The Secretariat recalled that in the previous conclusion in 2017, it noted that the entry into force of Articles 6 (occupational health and safety services), 7 (State subsidies to occupational health and safety services) and 8 (occupational physicians and occupational safety specialists) of the Act on Safety and Health at Work were postponed to 1st July 2017 as regards the public institutions and enterprises where less than 50 workers were employed, and which were classified as less hazardous. In 2021, the ECSR observed that the entry into force of Articles 6 and 7 of the Law concerning the safety and health services classified as less hazardous, was now set to 31 December 2023. The ECSR took note of the information that the postponement of the entry into force of the above-mentioned provisions is not an obstacle to the appointment of OHS professionals by the enterprise or institution if needed. However, it considered that in the absence of legal provision, there was nothing to establish that there was a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy. It reiterated its request for information/explanation on how the functions performed by workplace physician and of the occupational safety expert were adapted in practice to all undertakings, especially in small and medium-sized enterprises.

57. Preceded by a deferral (2009), the ECSR concluded in 2013 and 2015 on non-conformity of the situation on the ground that it could not be established that there was a strategy to institute access to occupational health services for all workers in all sectors of the economy. In 2017 it again deferred its conclusions pending receipt of the information requested.

58. In the follow-up to Conclusions 2013, the authorities informed the Governmental Committee that additional information was to be provided in the next National Report.

59. The representative of Türkiye presented the following information:

“The main law in the field of Occupational Health and Safety is the Act No. 6331 on Occupational Health and Safety. Arrangements related with the Occupational health and safety services are mentioned in the article 6 of the said Law. Occupational health and safety services ARTICLE 6 – (1) In order to provide occupational health and safety services including activities related to the protection and prevention of occupational risks, the employer shall:

a) Designate workers as occupational safety specialist, occupational physician and other health staff. In case there is lack of personnel in the undertaking competent enough to be designated, the employer shall enlist a joint health and safety unit to partially or fully provide these services. Provided that the employer has the required qualifications and documents, these services can be offered by the employer considering the hazard class and the number of workers.

b) Meet the need for means, space and time to help designated people or organizations fulfil their duties.

c) Ensure cooperation and coordination among all people and bodies responsible for providing health and safety services at workplaces

d) Implement measures related to occupational health and safety and that are in accordance with the legislation and notified in writing by the designated persons or organizations providing services

e) *Keeping the records and information regarding employees' work, risk assessment results and exposure, first and periodic medical examination results, work accidents and occupational diseases in the personal medical files in the workplace in accordance with the confidentiality principle*

f) *Monitoring the fulfilment of the duties specified in the "Regulation on education, duties, powers and responsibilities of Occupational Physicians and Other Healthcare Personnel" and the "Regulation on the Duties, Authority, Responsibility and Training of Occupational Health and Safety Experts" (2) Certified copies of records that must be kept by the workplace physician and occupational safety expert assigned by the Joint Health and Safety Unit to provide occupational health and safety services in the workplaces (Additional phrase: RG-18/12 / 2014-29209), records of the annual work plan and annual evaluation report, records of occupational health and safety trainings are kept in Joint Health and Safety Unit archive and shown to the officers authorized for inspection if requested. Even if they are not asked, all records and files are delivered to the employer by Joint Health and Safety Unit at the end of the contract period. (3) WHSUs and JHSUs take care not to disrupt the normal work flow during the delivery of occupational health and safety services. (4) JHSUs cannot transfer all or part of occupational health and safety services to another person or institution. (5) Contracts regarding persons employed by JHSUs are notified to the DG OHS via OHSKATIP within five working days. (6) In case of cancellation of the authority or suspension of the activities of JHSUs for any reason or their documents are canceled by the DG OHS, they shall send the originals of their authorization documents to the DG OHS within 30 days. (7) (Annex: RG-18/12 / 2014-29209) If the responsible manager of JHSU changes or leaves his position, the newly assigned manager must be appointed by the JHSU within 30 days at the latest through the OHS-KATIP. The number of Joint Health and Safety Units has increased from 2013 to 2020 with a rate of 139%. Compared to 2014, the number of employees who received OHS services increased by 44.26% in 2020. In the framework of these above mentioned legislation, occupational safety experts are obliged to fulfill the following duties according to the Article 9 of the Regulation on the Duties, Authorities, Responsibilities and Training of Occupational Safety Experts published in the Official Gazette dated 29.12.2012 and numbered 28512:*

"Guidance;

1) For planning works, organization and the implementation of the work, including the design, condition, maintenance, selection of machinery and other equipment and the materials used, in relation to the work done and changes to be made in the workplace, and also for ensuring that the selection, supply, use, maintenance, storage and testing of personal protective equipment are carried out in accordance with the occupational health and safety legislation and general occupational safety rules, making recommendations to the employer.

2) To inform the employer in writing about the measures to be taken regarding occupational health and safety.

3) To investigate the causes of work accidents and occupational diseases that occur in the workplace and to make suggestions to the employer by working on the measures to be taken to prevent their recurrence.

4) To investigate the causes of events that occur in the workplace but do not cause death or injury, but have the potential to harm the employee, equipment or workplace, and make suggestions to the employer.

Risk assessment;

1) Participating in the work and implementation of risk assessment in terms of occupational health and safety, making suggestions to the employer about the health and safety measures to be taken as a result of the risk assessment and following up.

Work environment surveillance;

1) To monitor the working environment, to plan the periodic maintenance, controls and measurements that should be done in accordance with the occupational health and safety legislation in the workplace and to control their applications.

2) *Participating in the work carried out for the prevention of accidents, fires or explosions in the workplace, making suggestions to the employer in this regard, and following the practices; Participating in the preparation of emergency plans for situations such as natural disasters, accidents, fires or explosions and monitoring and controlling the conduct of periodic trainings and exercises on this subject and the action in line with the emergency plan. Education, information and registration;*

1) *Working on the planning of occupational health and safety training of employees in accordance with the relevant legislation, presenting it to the employer's approval and making or controlling its applications.*

2) *To prepare the annual evaluation report, which records the results of occupational health and safety studies and work environment surveillance, in cooperation with the workplace doctor.*

3) *Organizing the information activities for the employees, presenting them to the employer's approval and controlling the implementation.*

4) *To prepare occupational health and safety instructions and work permit procedures to be used where necessary, to submit them to the employer's approval and to control their implementation.*

5) *To inform the OHS Clerk of the information regarding the occupational health and safety issues to be determined by the Ministry.*

Cooperation with relevant units;

1) *To make assessments about work accidents and occupational diseases together with the occupational physician, to prepare the necessary preventive action plans by making examination and research to prevent the dangerous event from recurring, and to follow up the practices.*

2) *To prepare the annual work plan, which includes the activities related to occupational health and safety to be carried out in the next year, together with the workplace doctor. 3) Working in cooperation with the occupational health and safety board of which it is a member,*

4) *To support the work of employee representatives and support staff and to cooperate with these people." In the 9th article titled "Duties of Occupational Physicians" of the Regulation on the Duties, Authorities, Responsibilities and Training of Occupational Physicians published in the Official Gazette dated 20.07.2013 and numbered 28713, occupational physicians were obliged to fulfill the duties stated below: "Occupational physicians work together with other health personnel if they are present at the workplace.*

Guidance;

1) *To guide the employer regarding the health surveillance of employees and the surveillance of the working environment within the scope of occupational health and safety services.*

2) *To make suggestions to the employer in order to ensure that the design of the workplace, the planning, organization and implementation of the work, including the substances used, and the selection of personal protective equipment, regarding the work done and changes to be made in the workplace, are carried out in accordance with the occupational health and safety legislation and general occupational health rules.*

3) *To advise the employer on the activities necessary to improve the health of employees in the workplace.*

4) *In the field of occupational health and safety, participating in research by taking into account the physical and mental capacities of the employees in terms of ergonomic and psychosocial risks in the conduct of the work, making researches to ensure the harmony of the work and the employee and to protect them from the stress factors in the working environment, and to consider these research results in guidance activities.*

5) *To advise the employees on the nutritional needs and appropriate drinking water required by the work carried out, by constantly monitoring and supervising the general hygiene conditions*

of the workplace buildings and annexes, including the canteen, dining hall, dormitory, nursery and breastfeeding rooms, and changing rooms, showers and toilets.

6) To investigate the causes of work accidents and occupational diseases that occur in the workplace and to make suggestions to the employer by working on the measures to be taken to prevent their recurrence.

7) To investigate the causes of incidents that have the potential to harm the employee, equipment or workplace even though they do not cause death or injury, and to make suggestions to the employer.

8) To inform the employer in writing about the measures to be taken regarding occupational health and safety.

Risk assessment;

1) Participating in the work and implementation of risk assessment in terms of occupational health and safety, making suggestions to the employer about the health and safety measures to be taken as a result of the risk assessment and following up.

2) Close monitoring and protection of the groups requiring special policies such as pregnant or breastfeeding women, those under 18 years of age, those with a diagnosis or pre-diagnosis of an occupational disease, those with chronic diseases, the elderly, the disabled and those with alcohol, drug and drug addiction, and those who have had more than one occupational accident and also to inform and take special consideration for these groups in the risk assessment to be made.

Health Surveillance;

1) To inform the employees about the employment and periodic examinations and examinations to be carried out within the scope of health surveillance and to obtain their consent.

2) Carrying out health surveillance of employees, including night shifts.

3) (Amendment:Dated-18/12/2014) Considering the personal characteristics of the employee, the hazard class of the workplace and the nature of the work, in line with the results of the risk assessment made in the workplace with international standards; periodically examination is repeated at least once every five years for jobs in the less hazardous class, at least once every three years for jobs in the hazardous class, at the latest once a year for jobs in the very hazardous class and at least once every six months for the groups requiring special policy such as children, young people and pregnant workers. However, these periods are shortened if the workplace doctor deems it necessary.

4) Issuing the "recruitment certificate" and periodic health examination document stating that the employees are suitable for the job they will do, arranging the results of the necessary examinations and keeping them in the workplace.

5) To prepare a report by making the necessary health examinations for the appropriate job placement of employees such as groups requiring special policies, those with a diagnosis or pre-diagnosis of an occupational disease, chronic disease, substance abuse, and those who have had more than one work accident and to repeat the health examinations of other employees in the environment where the person works, in case of an employee diagnosed with an occupational disease or pre-diagnosed.

6) To determine whether there is a relationship between absenteeism from work due to health problems and health hazards that may occur in the workplace, to plan measurements related to the working environment when necessary, to submit to the approval of the employer, and to evaluate the results in terms of the health of the employees.

7) To submit to the approval of the employer, by recommending that those who are found inconvenient to work in their previous job be given a task suitable for their current health status,

by carrying out a return to work examination upon their return to work after the employees have been away from repetitive work due to health reasons.

8) To provide necessary hygiene training, to ensure that necessary examinations and examinations are carried out, as well as to prevent spread and immunization studies for the control of communicable diseases.

9) To record the studies related to health surveillance in the workplace, to make evaluations on work accidents and occupational diseases in cooperation with the occupational safety specialist, to prepare the necessary preventive action plans by examining and researching in order to prevent the dangerous event from recurring and preparing the annual work plan, including these issues, and submitting it to the employer's approval, to follow up the applications and to prepare the annual evaluation report.

10) (Amendment dated 18/12/2014) To check whether the medical reports have expired or not showing that the employees sent to the workplace temporarily from another employer and subcontractor employees are suitable for the job they will do.

Education, information and registration;

1) Working on the planning of occupational health and safety training of employees in accordance with the relevant legislation, presenting it to the employer's approval and making or controlling its applications.

2) To carry out the organization of first aid and emergency response services in the workplace and the training of personnel in line with the relevant legislation.

3) To provide training to the managers, to the members of the occupational health and safety committee, if any, and to the employees on general health, occupational health and safety, hygiene, the harms of the use of addictive substances, personal protective equipment and collective protection methods, and to ensure the continuity of the training.

4) To inform the employees about the risks in the workplace, health surveillance, employment and periodic examinations.

5) To prepare the annual evaluation report, in which the results of occupational health and safety studies and health surveillance are recorded, in cooperation with the occupational safety expert.

6) To inform the General Directorate of information regarding occupational health and safety issues to be determined by the Ministry, via the OHS CLERK system.

Cooperation with relevant units;

1) According to the results of the health surveillance, to propose the necessary measurements within the scope of the surveillance of the working environment in cooperation with the occupational safety specialist, to evaluate the measurement results.

2) To work in cooperation with the occupational health and safety committee of which he is a member, if any.

3) To cooperate with the relevant parties in order to provide information and training on occupational health and safety in the workplace.

4) Participating in the development of programs for the improvement of existing practices, such as the analysis of work accidents and occupational diseases, programs for the improvement of work practices, and the evaluation and testing of new technology and equipment in terms of health.

5) To work in cooperation with hospitals authorized to issue health board reports on occupational diseases in accordance with the Regulation on Working Power and Loss of Profitability in Occupation, and to cooperate with the relevant units in the rehabilitation of workers who have had a work accident or have an occupational disease.

6) Participating in research in the field of occupational health and safety.

- 7) To contribute to the occupational safety specialist in the preparation of occupational health and safety instructions and work permit procedures in order to be used where necessary.
- 8) To prepare the annual work plan, which includes the activities related to occupational health and safety to be carried out in the next year, together with the occupational safety specialist.
- 9) To support the work of the employee representatives and support staff in the workplace and to cooperate with these people." In the first and second paragraphs of Article 6 of the Occupational Health and Safety Law dated 20/6/2012 and numbered 6331; it is stated that in workplaces, including public institutions, an occupational safety specialist and an occupational physician can be appointed among their own employees.

It has been stated that if it is not possible to employ an occupational safety specialist and a workplace doctor with this method, all or a part of this service can be provided by obtaining services from the common health and safety units. Public institutions and organizations within the scope of the Public Procurement Law dated 4/1/2002 and numbered 4734; it has been stipulated that occupational health and safety services can be obtained directly from organizations with revolving funds belonging to the Ministry of Health, as well as within the framework of the provisions of the Law No. 4734. In addition, with the regulation made in 2014 in Article 6 of the Law titled "Occupational health and safety services", employers were allowed to undertake occupational health and safety services, provided that they were limited to their own workplaces with less than 50 employees and in the less hazardous class. Issues related to the implementation of this provision are regulated in the Regulation on Occupational Health and Safety Services to be carried out by the Employer or the Employer's Representative, which came into force after being published in the Official Gazette dated 29.06.2015 and numbered 29401. Issues related to employer/employer representatives' ability to carry out occupational health and safety services in their workplaces, excluding employment and periodic examinations and examinations, are included in the said Regulation. Thus, it has been possible for the employer or his representative to undertake the OHS services to be provided to the employees at the workplace without increasing the costs of the employers for the relatively small and less dangerous enterprises, but without making any concessions in terms of ensuring the health and safety of the employees. In addition, the employers or the employer's representative of the workplace, which does not have the specified qualifications and the necessary documents, but has less than 50 employees and is in the less dangerous class, has also been given the opportunity to carry out occupational health and safety services in their own workplace. And, there is no obstacle in front of the personnel who have the appropriate qualifications in another institution to serve in other public institutions by obtaining their consent, giving the approval of the top manager, and making a separate assignment with each institution. These responsibilities are audited within the scope of Article 24 of the Law and administrative sanctions are imposed on the employer for responsibilities not fulfilled within the scope of Article 26. However, no discrimination is foreseen in the Law for temporary workers or workers with fixed-term contracts. The employer is obliged to provide occupational health and safety services for all its employees. Within the scope of the principle of equal treatment of the Labor Law No. 4857, the employer cannot treat a part-time employee against a full-time employee or a fixed-term employee against an indefinite-term employee.

The access of these workers to occupational health and safety services is provided through the occupational health and safety services that the employer is obliged to take within the scope of the Occupational Health and Safety Law No. 6331. Again, in accordance with the article of the Labor Law No. 4857 regulating the temporary employment relationship, the employer of the workplace where he/she works temporarily is responsible for the access of the employee working in a workplace to occupational health and safety services. In this context, the access of these workers to occupational health and safety services is provided through the occupational health and safety services that the temporary employer is obliged to take. Self-employed and domestic workers are excluded from the scope of the Occupational Health and Safety Law No. 6331, as in the European Union Framework Directive No. 89/391. It is obligatory for these people to pay their insurance premiums or to pay premiums, and they can apply to general health service providers in case of health problems they encounter in the workplace. In the 38th article of the Occupational Health and Safety Law No. 6331 titled "Enforcement" says; "Article 38 - (1) of this Law; a) (Amended: 12/7/2013-6495/56 art.) Articles 6 and 7;

1) On 31/12/2023, for public institutions and workplaces with less than 50 employees and in the less dangerous class, excluding employees within the scope of the abolished article 81 of the Labor Law No. 4857,

2) on 1/1/2014 for workplaces in dangerous and very dangerous classes with less than 50 employees,

3) For other workplaces, after six months from the date of publication, ... enter into force.". By these provisions, it regulates the effective dates of the provisions of the law. Pursuant to Article 38 of the Law No. 6331, the obligation to appoint an occupational safety specialist and an occupational physician had started as of 1/7/2016 for all workplaces belonging to the public and private sectors within the scope of the Law. However, implementation of the Law No. 6745 and Articles 6 and 7 of the Law No. 6331, published in the Official Gazette dated 7/9/2016 and numbered 29824 within the scope of the abolished article 81 of the Labor Law No. 4857, it has been postponed to 1/7/2017 for public institutions and workplaces with less than 50 employees and in the low danger class. The reason for this is to eliminate the problems experienced in public institutions, to provide time for workplaces to be assigned from among their own employees, with the coverage of approximately 1 million workplaces and 4.2 million employees in the less dangerous class, including small tradesmen in terms of economy. Due to similar reasons, the obligation to appoint an occupational safety specialist and a workplace doctor needed to be postponed again, and with the Law No. 7033 dated 18/6/2017, the "1/7// The phrase "2017" has been changed to "1/7/2020". Along with the effect of the pandemic, similar reasons formed the basis of a new postponement, and the phrase "1/7/2020" was arranged as "31/12/2023" with Article 10 of the Law No. 7252 dated 23/7/2020. In this context, considering the current situation, the postponement made until 31/12/2023 is only applicable to public institutions, excluding those working within the scope of the abolished Article 81 of the Labor Law No. It covers workplaces in the dangerous class". There is no study in the current situation regarding the reduction of the determined period. There are many obligations in the Law, apart from the assignment of an occupational safety specialist and a workplace doctor. For example; Obligations such as risk assessment, emergency plans, firefighting, health surveillance, notification of occupational accidents, providing occupational health and safety trainings to employees, informing employees, assigning employee representative or representatives, establishing an occupational health and safety committee have not been postponed. In principle, as of 30/12/2012, employers have to fulfill many obligations in this and similar Laws and sub-regulations. Failure to fulfill the employer's obligations will result in administrative fines, especially according to Article 26 of the Law. In addition to these basic issues, there are employer obligations within the scope of the Regulation and Communiqué, which are sub-regulations of the Law. However, although the enforcement of Articles 6 and 7 of Law No. 6331 has been postponed, it is considered that there is no obstacle for employers to employ OHS professionals in case they demand or need it. In addition, the Regulation on the Duties, Authorities and Responsibilities of Occupational Safety Specialists in the Official Gazette dated 29/12/2012 and numbered 28512 in order to regulate the qualifications, training and certification, duties, authorities and responsibilities of occupational safety specialists working in occupational health and safety services, as well as working procedures and principles. has been published. Job descriptions of occupational safety experts have been determined within the framework of the aforementioned legislation.

As it is known, the postponement in the sub-clause (1) of the first subparagraph (a) of the first clause of the Law No. 6331 is included in the public institutions, excluding the employees within the scope of the abolished article 81 of the Labor Law No. 4857, and those with less than 50 employees and in the less dangerous class. includes businesses. Law obligations have started for all workplaces except the mentioned institution/organization/workplaces.

In this context, postponing in public institutions is only related to the employment of professionals. Carrying out risk assessment in the workplace, providing occupational health and safety training for employees, preparing emergency plans, performing health surveillance and similar employer obligations are in effect. In addition, during the postponement; Alternative arrangements are included in the legislation regarding the provision of OHS services in the workplace, without the obligation to appoint an OHS professional. It is considered that there is no obstacle for employers to employ OHS professionals if they request or need them. With this postponement, public institutions and

workplaces with less than 50 employees such as grocery stores, real estate offices, and law offices can provide these services without the need for outside services on occupational health and safety in this 3-year period, by completing the trainings given by institutions, organizations and universities that have signed a protocol with the Ministry. If they are successful in the exam, they will be able to fulfill this duty themselves. Thus, in the workplaces included in this scope, 3 years were given to the employer or employer's representative to receive training. In addition, services can be obtained from workplace physicians for employment and health examinations included in the OHS services to be undertaken by the employer or employer's representatives, as well as from public health service providers or family physicians within the scope of the law. In the Eleventh Development Plan, which is a basic policy document at the national level, prepared in our country and for the period (2019-2023), the following policies and measures are foreseen for occupational health and safety. In the 576th article of the Development Plan, the national policy in the field of occupational health and safety was determined as "Implementing the practices to increase the quality and efficiency of the services carried out in the field of occupational health and safety". In order to implement this policy, 5 basic strategic measures have been put forward. These measures briefly focus on the use of work accident and occupational diseases data for prevention, strengthening cooperation and social dialogue with social partners, increasing compliance with OHS standards in work equipment, strengthening human resources with training, inspection and regulations, and improving the quality of services:

- 576.1. A system will be developed to ensure to transfer the data collected by different institutions related to occupational health and safety to a single database, to determine the data to be obtained from the workplaces and to use of all these data with a focus on the prevention of work accidents and occupational diseases.

- 576.2. Training, seminars and informative activities will be organized with relevant public institutions, universities, trade unions and NGOs for the development and dissemination of occupational health and safety culture.

- 576.3. Studies will be carried out to make work equipment comply with occupational health and safety standards and domestic production will be encouraged.

- 576.4. Establishment of occupational standards and qualifications, which are the basis of training programs in the areas needed by the market; and by documenting the knowledge, skills and competencies of the workforce, it will be ensured that the work accidents are reduced and the workforce gains qualifications.

- 576.5. The quality and service quality will be increased by making effective inspections and regulations of the institutions authorized in the field of occupational health and safety; measurement and evaluation criteria will be developed for the training of occupational health and safety professionals. Strategic actions to be carried out in order to implement our national policy and related measures in the field of OHS, as set out in the development plan, have been determined. It is followed at the national level. Actions determined in the field of occupational health and safety within the scope of the Presidential Action Plan on an annual basis are followed at the national level. In addition, 6 additional actions are included in the Strategic Plan prepared at the Ministry level".

60. The representative of ETUC noted that the necessary legislation is there and, albeit the first postponement could be understandable, there has been a second postponement until the end of 2023. It might be considered to stimulate the Government to see whether the date of postponement could be amended. The representative of the Netherlands supported the proposal for a recommendation for Türkiye on this matter.

61. The Governmental Committee adopted a recommendation with 28 votes in favour, 1 against and 7 abstentions.

Article 11 - Right to protection of health

Article 11§1 - to remove as far as possible the causes of ill-health;

62. The Secretariat recalled that under Article 11§1, with a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia to remove as far as possible the causes of ill health.

Right to the highest possible standard of health

63. Article 11 enshrines the right to the highest possible standard of health and the right of access to health care. It imposes a range of positive and negative obligations. The title of the article – ‘the right to protection of health’ – makes clear that States’ obligations under that provision are not solely limited to ensuring enjoyment of the right to benefit from any positive, proactive State measures enabling enjoyment of the highest possible standard of health attainable (such as ensuring equal access to quality health care). Rather, the notion of the protection of health incorporates an obligation that the State refrain from interfering directly or indirectly with the enjoyment of the right to health.

64. This interpretation of Article 11 is consistent with the legal protection afforded by other important international human rights provisions related to health.

65. States Parties must ensure the best possible state of health for the population according to existing knowledge. Health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action. The main indicators are life expectancy and the principal causes of death. These indicators must show an improvement and not be too far behind the European average. Infant and maternal mortality are good indicators of how well a particular country’s overall health system is operating. These are avoidable risks and every step should be taken, particularly in highly developed health care systems, to reduce these rates to as close to zero as possible. A recurring problem of non-conformity under this provision are the high infant and maternal mortality rates in several countries, which when examined together with other basic health indicators, point to weaknesses in the health system.

Right of access to health care

66. The health care system must be accessible to everyone.

67. The right of access to care requires that:

- the cost of health care should be borne, at least in part, by the community as a whole;
- the cost of health care must not represent an excessively heavy burden for the individual. Out-of-pocket payments should not be the main source of funding of the health system. Steps must be taken to reduce the financial burden on patients from the most disadvantaged sections of the community;
- arrangements for access to care must not lead to unnecessary delays in its provision. The management of waiting lists and waiting times in health care are considered in the light of Committee of Ministers Recommendation (99)21 on criteria for such management. Access to treatment must be based on transparent criteria, agreed at national level.
- the number of health care professionals and equipment must be adequate. Conditions of stay in hospital, including psychiatric hospitals, must be satisfactory and compatible with human dignity.

68. In addition, the ECSR considers that any medical treatment without informed consent necessarily raises issues under Article 11 of the 1961 Charter.

RESC 11§1 AZERBAIJAN

69. The ECSR concluded that the situation in Azerbaijan was not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality have been insufficient;
- public healthcare expenditure is too low;
- it has not been established that the provision of healthcare is not subject to long waiting times.

70. The Secretariat recalled that as regards the first ground, in its previous conclusion (2017), the ECSR found that the situation was not in conformity with Article 11§1 on the ground that the measures taken to reduce infant and maternal mortality have been insufficient. In 2021 the ECSR took note of the various programmes initiated and carried out during the reference period. However, it noted that the situation had not improved significantly since the previous reference period. In view of the high rates of maternal and infant mortality, as well as the continued low life expectancy, it reiterates its conclusion of non-conformity on this point.

71. The second ground of non-conformity was also reiterated from the 2017 conclusion (public healthcare expenditure was too low). Although the data provided by the 2021 report indicated an increase in the amount of expenditure on health over the period 2018-2020 in Azerbaijan, the ECSR noted that health expenditure as a share of the GDP has decreased since the previous reference period, and it was still significantly lower compared to that of other European countries. The Committee therefore reiterated its conclusion of non-conformity on this point.

72. As regards the right of access to healthcare, the ECSR recalled that it also requires that arrangements for access to care must not lead to unnecessary delays in its provision (Conclusions XX-2 (2013), Poland). With regard to waiting times, the ECSR has repeatedly asked for information about the rules that apply to the management of waiting lists and statistics on average waiting times in healthcare (Conclusions 2009, 2013 and 2017). In the absence of such information in the 2021 report, the ECSR concluded that the situation was not in conformity with the Charter on the ground that it had not been established that the provision of healthcare is not subject to long waiting times.

73. The first ground of non-conformity (the rate of infant and maternal mortality and insufficient measures to reduce it) dates back to 2009 (2009, 2013 and 2017). In Conclusions 2013 and 2017, the ECSR also concluded that public healthcare expenditure, in absolute terms and as a share of GDP, was too low.

74. In 2014 (with respect to Conclusions 2013), the GC took note of the information and explanations provided and decided to await the ECSR's next assessment.

75. The GC examined the situation in 2017 with regard to both grounds of non-conformity. It proceeded to vote first on a recommendation which was not carried (0 in favour), then on warning which was carried (17 in favour, 1 against, 18 abstentions). The GC urged Azerbaijan to take measures to reduce the infant and mortality rates and to increase the public funding allocated for health, and thus to bring the situation into conformity with Article 11§1 of the Charter.

76. The representative of Azerbaijan presented the following information:

“Population of the Republic of Azerbaijan has increased from 10.152.829 persons in 2021 to 10.160.648 persons in February 2022. Demographic growth plays an important factor in the increasing of various diseases. The number of registered cancer patients in Azerbaijan has increased from 54,403 in 2020 to 58,948 in 2021. However, it is necessary to look at demographic indicators: the increase in the number of cancers is going along with the growth of the country's population. The application of modern methods of examination, the new methods of treatment has a positive effect on both the timely detection of the cancer and the treatment of these patients. Life expectancy at birth in 2021 was 73.6 years, of which 71.3 years for men and 75.9 years for women. The incidence of teenage pregnancy in Azerbaijan has been steadily decreasing, even though the pace of decrease has been slow. This is resulted from strengthening the outreach and public awareness programs about teenage reproductive health and also improvements in legislation. During the last 5 years the public health organizations and Ministry of Education has expanded the extracurricular program on reproductive health education to over 50.000 children of 6-8th grades and introduced 8 hours of curriculum-based lessons to all children in 7th and 8th grades within the school system. The special mobile application was developed and being currently promoted by the Ministry of Health

among children and their parents, and the new health education web portal is being developed to include various information about children's and teenagers' reproductive health, teen pregnancy, child marriages and healthy lifestyle in general. Ministry of Health and its agencies also continue to raise awareness about safe sex practices to prevent unwanted pregnancy and sexually transmitted diseases /HIV as well as to increase the use of modern contraceptive methods. The State of Azerbaijan guarantees equality of rights and freedoms to everyone, regardless of race, ethnicity, religion, language, gender, or origin, moreover, the right to personal immunity is a fundamental constitutional right. The State does not restrict the sex reassignment (gender swap) of any citizen. All citizens of the Republic of Azerbaijan have the right to unimpeded health care and free access to health services".

77. The Chair pointed to the fact that the problem is longstanding, in particular as regards the first ground of non-conformity.

78. The representative of Ireland requested some more detailed data concerning the waiting times, which Azerbaijan committed to submit to the Governmental Committee. The Chair then suggested that such information be provided in the next report.

79. The Chair further stated that on the two other grounds of non-conformity, a recommendation should be given to the authorities to address the problems or high mortality and the public health expenditure.

80. Accordingly, the Governmental Committee adopted a recommendation on the first ground of non-conformity (with 23 votes in favour, 2 against and 8 abstentions). Subsequently, it proceeded to vote on a recommendation on the second ground of non-conformity, which was not carried (1 in favour, 4 against and 21 abstentions).

81. The Governmental Committee urged the authorities to take all necessary measures to bring the situation into the conformity with the Charter.

RESC 11§1 GEORGIA

82. The ECSR concluded that the situation in Georgia was not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality have been insufficient;
- it has not been established that the provision of healthcare is not subject to unnecessary delays.

83. As regards the maternal and infant mortality, the Secretariat explained that the ECSR took note of reforms initiated and measures taken to reduce it. However, it noted that the situation had not improved significantly in this regard since the previous reference period. In view of the high rates of maternal and infant mortality, as well as continued low life expectancy, the ECSR found that insufficient efforts have been undertaken in this field, and therefore reiterated its finding of non-conformity on this point.

84. In its previous conclusion, the ECSR recalled that the right of access to healthcare also required that arrangements for access to care should not lead to unnecessary delays in its provision (Conclusions 2017). The ECSR has repeatedly asked for information on the rules that apply to the management of waiting lists and statistics on average waiting times in healthcare (Conclusions 2013 and Conclusions 2017). In the absence of such information in the report, the ECSR concluded that the situation is not in conformity with the Charter on the ground that it has not been established that the provision of healthcare is not subject to unnecessary delays.

85. The Secretariat recalled that insufficient measures to reduce infant and maternal mortality are a long standing non-conformity. In 2009, the Committee concluded that the situation in Georgia was not in conformity with Article 11§1 of the Revised Charter on the ground that it had not been established that measures taken to reduce infant and maternal mortality rates, which were significantly higher than in other European countries, were adequate. In Conclusions 2013 and 2017

the non-conformity on insufficient measures taken to reduce infant and maternal mortality persisted. In addition, in 2015 the ECSR concluded that the situation in Georgia was not in conformity on the ground that out-of-pocket payments in general and medication costs in particular represented too high a burden for the individual effectively being an obstacle to universal access to health care.

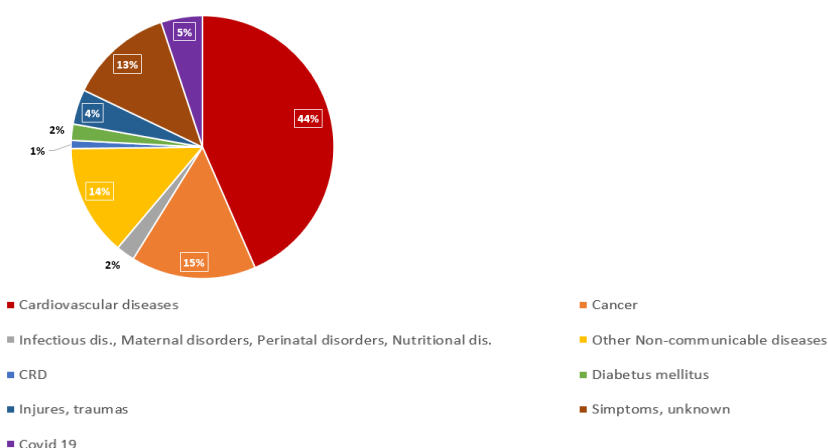
86. In 2011 and 2014, the GC invited the Government to provide all the relevant information in its next report and decided to await for the next assessment of the ECSR. In 2018 (with respect to Conclusions 2017) the GC examined the case and proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (23 in favour, 3 against, 14 abstentions). The GC urged Georgia to take measures to reduce infant and maternal mortality rated and thus to bring the situation in conformity with the Article.

87. The representative of Georgia provided the following information:

“1. to remove as far as possible the causes of ill-health;

Last few decades, a decrease of mortality and increase of life expectancy were mentioned in the world. Such change is partially associated with the increase of the number of non-fatal cases of noncommunicable diseases, the reduction of mortal cases caused by injuries, better control of risk factors, and early detection and improved management of diseases. In Georgia, similar to developed countries, the share of older population is increasing, which itself is reflected upon the mortality rate. In 2011-2015, according to the National Statistics Office of Georgia, the crude mortality rate was rather stable. In 2018, a trend for decrease, which has started in 2017, continued till 2018, and, in 2019, stayed at the same level. In 2020-2021 mortality rate increased to 13.6 and 16.2, which is largely due to the new coronavirus COVID-19.

Mortality structure, Georgia, 2020



Source: National Statistics Office of Georgia

In 2021, life expectancy at birth was declining and is 71.4 years (in females – 76.5; in males – 67.4).

Life expectancy at birth, Georgia

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total	71.3	72.1	72.1	72.5	72.8	73	72.7	73.5	74.0	74.1	73.4	71.4
Male	66.7	67.8	67.6	68.1	68.6	68.7	68.3	69.2	69.7	69.8	69.1	67.5
Female	75.8	76.5	76.7	76.9	77.0	77.3	77.2	77.8	78.2	78.4	77.7	75.4

Source: National Statistics Office of Georgia

In 2020, according to the data collected from women consultancy centers, 43 979 pregnant women were registered in Georgia. Last years, there was a growth of timely initiation of antenatal care (during the 1st trimester), this could be based on the improved financial accessibility of antenatal

services (86.7%). 92.5% of pregnant women were tested for hepatitis C, 90.3% - for syphilis and HIV, and 92.8% - for hepatitis B.

In 2020, 19 039 abortions were registered (409.2 per 1000 live births), of which, induced abortions constituted 61%. Compared with the previous year, the total number of abortions decreased by 5%. It is notable, that the share of abortions in women under-20 is around 2% of the total number of abortions.

In 2020, there were 45797 deliveries registered in medical facilities. Last years, the share of deliveries in health institutions, reached the maximum value and stayed unchanged. In 2020, according to the National Statistics Office of Georgia, birth rate to women aged under-20 reduced and reached 27.3 (in 2019 – 29.4). Since 2000, the share of caesarean section deliveries has increased 4.3-fold and in 2017, this share reached 44.7%. in 2020, the share caesarean section deliveries reduced and equaled to 40.6%

In 2021, according to the National Statistics Office, in Georgia, 45946 live births were registered (2% less than the previous year). According to healthcare providers' data, 6.8% of live born babies were underweighted, and 35.7% of babies weighted more than 3500 gr.

In 2020, there were 19 cases of maternal mortality in Georgia, including 14 cases of early maternal mortality (maternal mortality rate per 100,000 live births = 30.1).

The underlying causes of maternal death are as follows: thromboembolism - 21% (4 cases, including 1 late death), preeclampsia /eclampsia - 5% (1 case), miscarriage with unfinished complicated pelvic infection - 5% (1 case), amniotic fluid 5% (1 case), postpartum hemorrhage - 11% (2 cases), infectious and parasitic diseases of the mother included in other categories, which complicate pregnancy, childbirth and bedtime - 16% (3 cases - 2 flu and 1 new coronavirus SARS-COV-2 infection), other specified diseases and conditions that complicate pregnancy, childbirth and bedtime - 32% (6 cases, including 4 late), obstetric death from unspecified cause - 5% (1 late case).

Different international organizations and agencies are producing maternal mortality estimates for different countries, e.g., the UN Maternal Mortality Estimation Interagency Group (MMEIG) and Institute for Health Metrics and Evaluation (IHME).

In 2020, in Georgia, 27781 1 new cases of diseases were registered in infants (in 2019 – 57601), incidence rate per 1000 infants – 588.6 (in 2019 – 1162.1). A share of respiratory system diseases in infant morbidity was 53.9% (in 2019 – 57.7%), a share of infectious and parasitic diseases – 6.8%. In 2020, hospital services were provided to 18 832 infants (in 2019 – 26 534), a share of the respiratory system diseases among of all cases of hospitalization was 27.8% (in 2019 – 42.7%), a share of certain conditions originating in the perinatal period – 36.7% (in 2019 – 27.9%), a share of COVID was 5.2%.

In 2020, in Georgia, there were registered 103 615 new cases of diseases in children aged under-5 (in 2019 – 219 908), incidence per 1000 children – 397.6 (in 2019 – 804.9).

In the structure of incidence in children aged under-5, a share of the respiratory system diseases was 59% (in 2019 – 65.3%), a share of infectious and parasitic diseases – 11% (in 2019 - 10.3%).

During the reporting period, hospital services were provided to 46 780 children aged under-5 (in 2019 – 71 273), of which the respiratory system diseases were registered in 38.1% (in 2019 – 51.3%); infectious and parasitic diseases – 18.8% (in 2019 – 18.6%), share of COVID in the total number of hospitalization was 4%.

According to the World Health Organisation global data, the share of neonatal death in under-5 mortality equalled 45%. In Georgia, in 2020, a share of neonatal death in under-5 mortality was 55.3%. According to the WHO global data, almost 75% of under-5 deaths occurred in infants. In 2020, in Georgia, this share, according to the NCDC and the NSO data, constituted 84% (in 2019 – 83.4%). According to all sources, the infant mortality trend is declining.

Infant mortality rate per 1000 LB, Georgia

Source	2000	2005	2010	2012	2015	2016	2017	2018	2019	2020
Geostat	27.3	29.5	16.9	14.6	8.6	9.0	9.6	8.1	7.9	7.9
IGME	30.9	21.7	14.6	12.6	10.6	10.5	10	8.7		-
GERHS	41.6	21.1	14.1	-	-	-	-	-		-

In 2020, a share of conditions originating in the perinatal period in the infant mortality structure was 72%.

In Georgia, according to the latest available data (WHO HFA DB), despite of the declining trend, the under-5 child mortality, still is higher than in the European countries, although, it is in the middle position among the countries of the former Soviet Union.

According all sources, such as official statistics, international experts estimates (the UN Inter-agency Group for Child Mortality Estimation - IGME), and large-scale studies (Georgian Reproductive Health Survey GERHS), Global Burden of Disease Study – GBD, Georgia, has reached the Millennium Development Goal in reducing the under five mortality rate. It is important that GBDs and IGME assessments for the global and regional levels almost matched, the matching level - 98%.

Under-5 mortality rate per 1000 live births, Georgia

Source	2000	2005	2010	2012	2015	2016	2017	2018	2019	2020
Geostat	30.1	31.5	18.9	16.7	10.2	10.7	11.1	9.8	9.4	9.3
IGME	35.3	24.5	16.4	14.1	11.9	Female - 10 Male - 12	--	9.8		-
GBD	36.2	28.0	21.8	-	17.4	11.7	--	--	-	-
RHS	45.2	25.1	16.4	-	-	-	--	--	-	

In 2021, the 2021-2023 Action Plan for the Strategy for Improving Maternal and Newborn Health 2017-2030 was approved. The process of regionalization of antenatal services is underway and will be completed by the end of 2022. The state plans to fund prenatal and postnatal visits in 2023”.

88. The Chair noted that the situation has worsened, according to the statistics presented, followed by the lowering of the life expectancy.

89. The Governmental Committee voted on a recommendation with respect to the first ground of non-conformity, which was not carried (with 14 votes in favour, 4 against and 14 abstentions). Subsequently, it proceeded to vote on a recommendation with respect to the second ground of non-conformity, which was not carried (with 0 votes in favour, 7 against and 26 abstentions). It urged the authorities to take all necessary measures to reduce the infant and mortality rate

90. The representative of Belgium indicated that indeed, there are various grounds for voting for or against a recommendation should always be based on a specific reason and this should be kept in mind, in particular in the light of the new working methods and a more active approach towards recommendations.

91. The representative of North Macedonia explained that the situation cannot be easily improved and considered that the cases were not mature for a recommendation. The problem at stake was extremely complex. Recommendation should be well substantiated and there should be more justified and better presented. It should also be only in the most serious cases.

92. The representative of France suggested that some cases could possibly be grouped, to issue one common recommendation, for the sake of the equal treatment, while still keeping in mind different social and economical and political situation.

93. The representative of Sweden pointed to the fact that all elements for the recommendation are in the conclusion of the ECSR and it is up to the State on how it is to implement it, a recommendation is a formal thing and it should be borne in mind that they should not be too detailed any way.

RESC 11§1 MOLDOVA

94. The ECSR concluded that the situation in the Republic of Moldova was not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality rates have been insufficient;
- it has not been established that sufficient measures have been taken to effectively guarantee the right of access to healthcare.

95. The ECSR noted that infant mortality has decreased slightly since the previous reference period but considered that the rate was still high relative to other European countries. As regards the maternal mortality rate, the ECSR noted that this rate was also considerably above the average in other European countries. It considered that the prevailing high infant and maternal mortality rates, examined together with the comparatively low life expectancy rate, show that the situation in the Republic of Moldova was still below the average in other European countries, and pointed to weaknesses in the health system. It found that insufficient efforts and progress have been made in this field and therefore maintained its conclusion of non-conformity on this point.

96. As regards the access to healthcare, the ECSR has previously requested comprehensive information on healthcare reforms pursued and on measures taken to increase the number of doctors, particularly in rural areas (Conclusions 2013 and 2017). The report did not provide the requested information. In the absence of such information, the Committee concluded that the situation in the Republic of Moldova was not in conformity with Article 11§1 of the Charter on the ground that it has not been established that sufficient measures have been taken to effectively guarantee the right of access to healthcare.

97. The Secretariat presented the historical developments, indicating that since 2005, the problem of insufficient efforts to reduce the prevailing high infant and maternal mortality rates persists. The ECSR concluded that the situation in the Republic of Moldova continued not to be in conformity with Article 11§1 of the Charter on this ground in Conclusions 2005, 2009, 2013 and 2017. In 2006 (in the follow-up to Conclusions 2005), the GC noted positive developments and decided to await the next assessment of the ECSR. The GC further took note of the information and explanations provided in 2011 and 2014 (with respect to Conclusions 2009 and 2013) and decided to await the ECSR's next assessment. The GC has examined then the renewed non-conformity conclusion of 2017 when it proceeded to vote first on a recommendation which was not carried (0 in favour), then on a warning which was carried (18 in favour, 4 against, 15 abstentions). The GC urged the Republic of Moldova to take concrete measures to reduce the infant and mortality rates and thus to bring the situation in conformity with Article 11§1 of the Charter.

98. The representative of Moldova did not submit any information and was not present for the discussion.

99. The Governmental Committee adopted a recommendation on the first ground (with 24 votes in favour, 2 against and 5 abstentions) and on the second ground (27 votes in favour, 0 against and 6 abstentions).

100. The Governmental Committee also urged the Moldovan authorities to comply with their reporting obligations and also to respect the requirement to provide necessary information to the Governmental Committee on the measures taken in the follow-up to the conclusions of non-conformity.

RESC 11§1 ROMANIA

101. The ECSR concluded that the situation in Romania was not in conformity with Article 11§1 of the Charter on the grounds that:

- the measures taken to reduce infant and maternal mortality rates have been insufficient;

- transgender people have to undergo sterilisation in order to receive legal recognition.

102. The ECSR took note of the reforms initiated and the measures taken to reduce maternal and infant mortality. However, it noted that the maternal and infant mortality rate remained high (well above the average in the European Union). In view of the high rates of maternal and infant mortality, as well as the still low life expectancy, the ECSR reiterated its conclusion of non-conformity on this point.

103. As regards the second ground of non-conformity, the ECSR noted that the Law on civil status documents (No. 119/1996) provides the conditions under which civil status documents may be amended and it states that they can be amended after the change of sex, after the final and irrevocable decision of a court. The ECSR recalled that the European Court of Human Rights has recently found a violation of Article 8 of the European Convention on Human Rights because of the refusal of the Romanian authorities to legally recognise the applicants' gender reassignment for lack of gender reassignment surgery (*X and Y v. Romania*, complaints Nos. 2145/16 and 20607/16, Judgment of 19 January 2021, §167). In view of this information, the ECSR found that the situation in Romania of transgender people was not in conformity with Article 11§1 of the Charter.

104. The Secretariat recalled that the non-conformity as regards the infant and maternal mortality dates back to 2003, when the ECSR concluded that the situation in Romania was not in conformity with Article 11§1 of the Revised Charter due to the particularly high infant and maternal mortality rates. Maternal and infant mortality rates kept being manifestly too high according to further conclusions 2005, 2009, 2013 and 2017. Accordingly, the 2021 conclusion is the 6th same non-conformity in a row. In 2009, 2013 and 2017, the ECSR further concluded measures taken to reduce infant and maternal mortality rates had been insufficient.

105. In addition, other grounds were discerned: in 2005 and 2009 the ECSR concluded that the living conditions in certain psychiatric hospitals were manifestly inadequate and in 2009 that it had not been established that there were reasonable health care waiting times and that the management of waiting lists was satisfactory. The second ground of non-conformity appears in 2021 for the first time.

106. In 2004 (in the follow-up to Conclusions 2003), the Governmental Committee noted the information provided and decided to await the next assessment of the ECSR. In 2006 (in the follow-up to Conclusions 2005 which reiterated the non-conformity), the GC welcomed the steps taken by Romania, which had helped to reduce the infant and maternal mortality rates and asked the Government to continue its efforts to bring them down. Subsequently, with respect to Conclusions 2009 and 2013, the GC again invited twice the Government to provide further information in its next report and await the next assessment of the ECSR. As the situation has still not changed, in the follow-up to Conclusions 2017, the GC proceeded to vote first on a recommendation which was not carried (0 in favour) then on a warning which was carried (20 in favour, 1 against, 18 abstentions). The GC urged Romania to take measures to reduce the infant and maternal mortality rates and thus to bring the situation in conformity with 11§1 of the RESC.

107. The representative of Romania presented the following information:

"1. Regarding the first ground of non-conformity, maternal mortality, calculated as the ratio of the number of deaths from complications of pregnancy, childbirth and lactation (abortion + direct obstetric risk) per 1000 live births, has decreased significantly in recent years. For comparison, the maternal mortality ratio in 2011 was 0.26 per 1000 live births and in 2019 it was 0.10 per 1000 live births. The rates fluctuate between 2011 and 2019, with different values for the two components: obstetric risk-direct causes and abortion.

In terms of infant mortality, deaths under the age of one continue the descending trend, so that the infant mortality rate decreased significantly from 9.4 per 1000 live births in 2011 to 5.7 per 1000 live births in 2019.

The health of pregnant women and children is a public health priority. The Women and Child Health Programme includes interventions aimed at: promoting breastfeeding; essential micronutrient supplementation of pregnant women and young children's diets; prevention of malnutrition in low-birth-weight infants; healthy nutrition and prevention of childhood obesity. Priority is given to reducing infant mortality and the risk of neonatal death by increasing access to appropriate care in regional facilities for infants at risk of neonatal death and strengthening the neonatal screening component. In the National Health Strategy for 2014-2020, a separate chapter has been dedicated to strategic lines for improving maternal and child health.

The first Specific Objective was "Improving maternal and child health and nutrition and reducing the risk of maternal and child deaths". The actions foreseen under this strategic objective were to improve the legislative framework, increase the management, monitoring and evaluation capacity of the National Programme for Women's and Children's Health, improve the methodological framework and increase the technical capacity of health service providers, ensure access to early diagnosis, adequate monitoring and quality treatment, increase the level of information to the general population and especially to families and children at high risk. Since 2017, a commercial has been running on national TV programmes on the advantages of exclusive breastfeeding in the first 6 months of a child's life. The message "Exclusive breastfeeding in the first 6 months is essential for a healthy life" is broadcast at the end of all commercials containing advertising for products that could undermine breastfeeding.

During 2017-2020, the project "Hospital-community, continuous care flow for newborn and infants at high risk of illness and death" was implemented. The project aimed to improve the skill level of health professionals by providing adequate and quality newborn and infant health services leading to a decrease in neonatal and infant deaths with improved child health indicators.

2. Regarding the second ground of non-conformity, the decision of the European Court of Human Rights (ECHR), pronounced in case X and Y against Romania, criticizes the provisions contained in Law no. 119/1996 on civil status documents and Government Ordinance no. 41/2003 regarding the acquiring and administrative change of the names of natural persons. Regarding the provisions of art. 98 and art. 100 para. (1) and (3) of the Civil Code - included in the relevant domestic law section of the judgment, these are common law rules that establish the general framework for civil status documents. By these provisions, the legislator opted, in accordance with the jurisprudence of the ECHR in this regard, for the solution to grant the judicial authority the power to rule on modifications of civil status documents.

Following Romania's conviction at the ECHR, in order to help prevent similar violations in the future, the judgment was distributed to all courts of appeal in the country, in order to develop a coherent, clear and predictable jurisprudence in cases related to the legal recognition of sex change and marital status, in line with the position expressed by the ECHR in this regard. Thus, according to the Action Plan in Case X and Y against Romania, submitted by the Romanian Government to the Committee of Ministers of the Council of Europe, according to recent case law communicated by national courts after 2019, was recognised the sexual identity of the applicants without prior gender reassignment surgery in 35 out of 36 cases - with the exception that in 5 of these cases the applicants had previously completed the gender reassignment surgery.

Thus, the civil courts that have dealt with gender reassignment applications have considered that Romanian law allows for the recognition of gender reassignment, interpreting the existing legal framework in the sense that legal recognition of gender reassignment is not conditional upon gender reassignment surgery. Also, following the dissemination of the ECHR judgment, national practice should become clearer and more predictable in this matter, in line with the principles of the European Convention on Human Rights and ECHR case law.

Regarding the access of transgender persons to gender reassignment treatment, insured persons are entitled to free and compensated out-patient hormonal treatment on prescription, on the condition that it is recommended by the medical specialist. This procedure is necessary and mandatory because it takes into account the principle of patient safety in specific therapy (avoidance of adverse

effects, incidents and accidents of administration, obtaining maximum effectiveness without altering the patient's state of health).

In Romania, the anti-discrimination legislation prohibits discrimination based on criteria that is not limited by the legislator. Thus, discrimination on the grounds of sex, sexual orientation or any other criterion, as long as it is identified or identifiable, is prohibited. Healthcare is granted without discrimination on the basis of ethnicity, religion, sexual orientation or other discriminatory criteria prohibited by law. The protection of insured persons is provided in a universal, equitable and non-discriminatory manner, under the conditions of efficient use of the Single National Health Insurance Fund. According to the regulations of the Law on Health Care Reform, insured persons have the right to benefit from the basic package of services without discrimination”.

108. The representative of France pointed that, as regards the second ground of non-conformity, the efforts should be acknowledged and the authorities invited to continue the measures undertaken to remedy the situation.

109. The Chair noted that a lot has been provided as regards the second ground and that also the issue is followed closely by the Committee of Ministers in the follow up to the judgment of the ECHR. He suggested that the Governmental Committee takes note of the information provided and invites the authorities to continue the efforts to bring the situation to conformity with the Charter and the European Convention of Human Rights.

110. Accordingly, the Governmental Committee proceeded to vote on a recommendation on the first ground, which was not carried (12 in favour, 6 against and 15 abstentions). The Governmental Committee took notes of the improvements to the situation and invited Romania to continue its efforts to bring the situation into compliance with the Charter.

Article 11§2 – to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health

111. The Secretariat recalled that with a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health.

112. There are two obligations under this provision:

Education and awareness raising

113. National rules must provide for informing the public, education and participation. States Parties must demonstrate through concrete measures that they implement a public health education policy in favour of the general population and population groups affected by specific problems. Informing the public, particularly through awareness-raising campaigns, must be a public health priority. Health education must be carried out throughout school life and form part of school curricula.

Doctor's consultations and screening

114. There must be free and regular doctor's consultation and screening for pregnant women and children throughout the country. Free medical checks must be carried out throughout the period of schooling. There should be screening, preferably systematic, for all the diseases that constitute the principal causes of death.

RESC 11§2 GEORGIA

115. The ECSR concluded that the situation in Georgia was not in conformity with Article 11§2 of the Charter on the ground that measures for counselling and screening of pregnant women and children were not adequate.

116. The ECSR observed that, according to the information provided in the report, the rates of infant and maternal mortality were still high. In view of these prevailing high mortality rates, it considered that the antenatal services and examinations for pregnant women and children have not yet improved sufficiently. Therefore, it maintained its conclusion of non-conformity on the ground that measures for counselling and screening of pregnant women and children were not adequate.

117. The Secretariat pointed to the fact that it was a long-standing non-conformity, dating back to 2009. In Conclusions 2013 and 2015 the ECSR concluded the situation continued to be in non-conformity on the same ground in addition to the fact that it had not been established that prevention through screening is used as a contribution to the health of the population. In 2017, the ECSR concluded that the situation in Georgia was still not in conformity on the ground that measures for counselling and screening of pregnant women and children were not adequate.

118. In the follow-up to Conclusions 2009 and 2013, the Governmental Committee noted that additional information was to be provided in the next National Report and decided to await the next assessment of the ECSR. Similarly, in 2018 (with respect to Conclusions 2017), the GC took note of the information provided, invited Georgia to bring the situation into conformity with Article 11§2 of the Charter and decided to await the next assessment of the ECSR.

119. The representative of Georgia presented the following information:

2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health

Healthy lifestyle and disease prevention are priority areas of healthcare system of Georgia. The first Non-communicable Diseases Prevention and Control National Strategy and Action Plan of 2017-2020 was adopted by the GoG Decree №2, January 11, 2017, with several strategic objectives and activities on NCDs and its risk-factors prevention and control; the strategy has been successfully accomplished.

The new strategy 2022-2026 documents of non-communicable diseases prevention and control is elaborated and in the process of internal technical discussions. The endorsement of the strategy is planned in May, 2022.

Tobacco Control National Strategy and Action Plan 2021 -2025 is operational with the goals to promote the health of the population of Georgia and reduce premature deaths from NCDs by reducing up to 15% of tobacco use and up to 5% of secondhand tobacco smoke exposure by 2030; to enhance full enforcement of multi-component tobacco legislation and policy in accordance with FCTC Articles and its Implementation Guidelines; to approximate the tobacco control legislation with the EU legislation in accordance with EU-Georgia Association Agreement and Association Agenda; to promote smoking cessation; to reduce demand for tobacco products and ensure similar regulation of existing tobacco products for new and emerging tobacco products, etc.

Promotion of healthy lifestyle and disease prevention are incorporated in the Health Promotion State Programme, implemented since 2015⁷. In 2022, the Health Promotion component budget amounted to 2.1 million Gel. The Programme aims to raise awareness on health promotion issues, prevent diseases and thus improve health status of the population. The programme covers healthy lifestyle issues such as strengthening tobacco control, promotion of physical activity and healthy nutrition, prevention of excessive alcohol use, drug addiction and gambling, prevention and public education on hepatitis C, awareness rising on mental health issues, promotion of cancer screening and volunteer blood donation, environment and health, promotion of COVID-19 vaccination.

⁷. GoG ordinance # 308 of June 30, 2015 on the Approval of State Health Care Programmes, the ordinance is updated annually

Different communication campaigns such as for marathons and playground stencils, thematic photo and drawing exhibitions, street arts, tree planting, social and TV/radio events, etc. to promote routine vaccination, reproductive health and other priority healthy lifestyle issues are frequently conducted. In 2022, NCDC will launch the first Health Promotion website and mobile application for pregnant and reproductive age women to educate them on reproductive health, maternal and child health issues, family planning, prenatal visits, Childbirth education, post-delivery education etc.

Disease prevention has increasingly been promoted by stimulating primary care providers engagement in screening and preventive programs. The financial incentives have been provided to village family physicians and nurses on each detected Hep C. The integrated screening program on Hep C, HIV and Tuberculosis at primary care level, supported by the Global Fund, illustrated the great potential of primary care providers to provide preventive services to local communities. MoIDPLHSA and NCDCPH strongly support adequate implementation and further roll out of preventive programs such as childhood immunization, cancer screening and other secondary preventive measures within chronic disease management programs.

Health prevention: The state program of health promotion has been functioning since 2016, the goal of which is to educate and raise awareness about the health of the population of Georgia, as well as to create a health-promoting environment, which allows for better control and improvement of health determinants.

The program includes activities in the following areas:

- *Prevention of COVID-19*
- *strengthening tobacco control;*
- *education on healthy feeding;*
- *raising awareness about excessive alcohol consumption;*
- *promotion of physical activity;*
- *prevention of hepatitis C and promotion of education of the population;*
- *promoting mental health;*
- *prevention of substance abuse and gambling addiction;*
- *environment and health;*
- *Women's and mothers' health*
- *Promotion and strengthening of health promotion*

Public healthcare programs: The aim of public healthcare program is supporting healthcare in the population, settling rules of healthy lifestyle, which is executed by different programs, helping to prevent many dangerous diseases, also arrangements to improve health state of the population.

Public healthcare includes programs, which help to prevent infectious and oncology diseases. Early detection of these diseases insures protection of the population to be increased from one point, and from the other point it ensures optimization of state expenses. Also immunization of the population, early detection of the diseases and support of screening programs, infectious diseases, like tuberculosis, malaria, hepatitis viruses, AIDS, and other infections, controlling their spread and making necessary arrangements to settle healthy lifestyle for the entire population of the country.

- *Early detection of the diseases and screening supports settling rules of healthy lifestyle and also early detection and prevention of spread of multiple diseases: cancer screening; screening of delays in children development in ages 0-6; Early detection and prevention of Epilepsy.*
- *Immunization protects the population from controlled infections*
- *Epid-supervisory program improves epidemiological safety and epid-supervisory and laboratory services for infectious diseases*
- *Safe blood program – All donation have been All donation have been screened on HIV/AIDS, HCV, HBV and syphilis*
- *Professional diseases prevention program protects employees from professional diseases*
- *Infectious diseases management program ensure adequate in-patient hospitalization service in case of infectious diseases*
- *Tuberculosis Management program controls cases of tuberculosis in the country, persons with tuberculosis (including questionable cases) are insured with diagnostic and treatment possibilities.*

- *AIDS program controls AIDS infections in the country, persons with AIDS infection and also the persons of high risk group are insured with diagnostic and treatment possibilities.*
- *Mother's and Children's health program includes visits in the frame of antenatal observation; investigation of newborns on hypothyroid, phenilketonuria, hyperphenilalaninemia and mucoviscidoses; screnneng of pregnant women on genetic pathology; ensure adequate in-patient care for high risk pregnants, women in childbirth and after childbirth.*
- *Drug use prevention program - drug users are provided with drug replacing therapy and medical supervisory care; visits in-patient detoxication and rehabilitation purposes”.*

120. The representative of France stated that in the note from the Committee of Ministers, the Governmental Committee should be a perspective adopted and not only a lookout into the past. She noted that there were different partnerships and networks and all are available to support Georgia and in any way needed, also financial, to really help to make the health care system more robust and effective.

121. Some delegations raised a point that if the non-conformity was based on screening, why the ECSR concluded on the non-conformity if the screening was there.

122. Accordingly, the Governmental Committee proceeded to vote on a recommendation, which was not carried (2 in favour, 13 against and 19 abstentions). It invited the authorities to provide the information in the next report and decided to await the assessment by the ECSR.

Article 11§3 - prevention of diseases and accidents

123. The Secretariat recalled that under Article 11§3, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia* to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Healthy environment

124. Article 11 encompasses the right to a healthy environment. Under the Charter overcoming pollution is an objective that can only be achieved gradually. Nevertheless, States Parties must strive to attain this objective within a reasonable time, by showing measurable progress and making best possible use of the resources at their disposal.

125. In this respect the guarantee of a healthy environment requires that States Parties:

- develop and regularly update sufficiently comprehensive environmental legislation and regulations;
- 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.
- ensure that environmental standards and rules are properly applied, through appropriate supervisory machinery, effective and efficient, that is comprising measures which have been established to be sufficiently dissuasive and have a direct effect on polluting emission levels;
- assess health risks through epidemiological monitoring of the groups concerned.

126. In order to comply with this provision States Parties have to take preventive and protective measures concerned with water. A situation where availability of drinking water is still a problem for a significant proportion of the population is in breach of the Charter.

127. Article 11 entails a policy that bans the use, production and sale of asbestos and products containing it. There must also be legislation requiring the owners of residential property and public buildings to search for any asbestos and where appropriate remove it, and placing obligations on enterprises concerning waste disposal.

Tobacco, alcohol and drugs

128. Anti-smoking measures are particularly relevant for the compliance with Article 11 since smoking is a major cause of avoidable death in developed countries. To be effective, any prevention policy must restrict the supply of tobacco through controls on production, distribution, advertising and pricing. In particular, the sale of tobacco to young persons must be banned, as must smoking in public places, including transport, and advertising on posters and in the press.

129. This approach also applies *mutatis mutandis* to anti-alcoholism and drug addiction measures.

Immunisation and epidemiological monitoring

130. States Parties must operate widely accessible immunisation programmes. Countries must demonstrate their ability to cope with infectious diseases, such as arrangements for reporting and notifying diseases, special treatment for AIDS patients and emergency measures in case of epidemics.

RESC 11§3 AZERBAIJAN

131. The ECSR concluded that the situation in Azerbaijan was not in conformity with Article 11§3 of the Charter on the grounds that:

- it has not been established that adequate measures were taken to overcome environmental pollution;
- legislation does not prohibit the sale and use of asbestos;
- it has not been established that adequate measures were taken to prevent accidents.

132. As regards the first ground, in its previous conclusions 2013 and 2017, the ECSR reiterated its request to be kept informed on the implementation of the measures and regulations adopted, as well as on levels of air pollution, contamination of drinking water and food intoxication. The information requested was not provided in 2021. Therefore, the ECSR concluded that the situation was not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to overcome environmental pollution.

133. In Conclusions 2009, 2013 and 2017, the ECSR found that the situation was not in conformity with the Charter on the ground that the legislation did not prohibit the sale and use of asbestos. As the situation has not changed, the ECSR reiterated its finding of non-conformity on this point.

134. As regards the last ground of non-conformity, in the view of the persistent lack of information on measures to prevent accidents, the ECSR reiterated its conclusion that the situation was not in conformity with Article 11§3 of the Charter on the ground that it had not been established that adequate measures were taken to prevent accidents.

135. The Secretariat recalled that in Conclusions 2009, 2013 and 2017 the ECSR concluded that the situation in Azerbaijan was not in conformity with Article 11§3 of the Charter on the ground that legislation did not prohibit the sale and use of asbestos. In Conclusions 2017, the ECSR also concluded that the situation was not in conformity with Article 11§3 of the Charter on the ground that it had not been established that adequate measures were taken to prevent accidents. In the follow-up to Conclusions 2009 and 2013, the GC noted the information provided, invited the Government to provide it in its next report and to await the next assessment of the ECSR.

136. The representative of Azerbaijan presented the following information:

“According to the Constitution, medical, scientific and other experiments cannot be carried out on anyone without their voluntary consent. Over the last decade, the number of beds in psychiatric hospitals has significantly decreased, and many psychiatrists and psychiatric nurses have been transferred to primary care facilities. A psychiatrist’s office is now available in almost all outpatient healthcare settings in each administrative district of the country. The special

forms for voluntary admission and informed consent to treatment have been implemented in all psychiatric hospitals and the majority of skilled personnel is trained on human rights of persons in psychiatric facilities.

According to the information shared by Forensic Medical Examination and Anatomical Pathology Union, in 2021 the number of deaths identified as result of drug overdose was 182 cases. In the frame of Harm Reduction program, the Government is providing methadone therapy. Currently, there are 976 patients covered by methadone program. Last year, 120 injection drug users with co-infections (HIV & Hepatitis) were identified in the country. The total number of illicit drug users identified in 2021 were 34,602 cases, of them 3,107 cases were multi-drug users. Numerous awareness raising campaigns in educational institutions and among the population are provided by mass-media. The sale and use of asbestos in Azerbaijan is not prohibited by legislation, but it should be noted that asbestos and any product containing asbestos is no longer produced and used in the country in new construction. However, slate roofs of old buildings contain asbestos.

The situation with smoking prevalence shows that male smokers have decrease on 5% since the last report submission. The Public Health and Reforms Center under the Ministry of Health of the Republic of Azerbaijan with support of government policymakers, stakeholders, NGOs and in collaboration with international organizations carried out a number of activities on tobacco control in Azerbaijan, such as "Quit Smoke Hotline" where those willing to quit smoking can get professional medical and psychological advice by calling the Hotline. With regard to the latest statistics on maternal and child mortality and significant development statistics in this area, it should be noted that maternal mortality consists of the number of deaths due to complications of the postpartum period, childbirth and pregnancy. According to recent statistics, the number of maternal deaths is increasing (12.2 in 2018, 15.8 in 2020). There numbers in child mortality is lower than in previous years. Speaking about the healthcare services in places of detention, all penitentiary institutions have medical staff of the main medical specialties and on-site examinations are regularly organized. Recently, the programme on "National Priorities for Socio-Economic Development: Azerbaijan – 2030" has been approved. "Clean Environment" and Green Growth" are among the five priorities for the next decade. The document sets an important task to ensure a high-quality environment and "green growth" that will respond to global climate change and ensure a healthy environment for the population in a country with a rapidly growing economy. The formation of a sustainable and healthy environment will also make an important contribution to the implementation of the UN SDGs".

137. Some delegations noted that the information provided was mostly irrelevant from the point of the view of the conclusion. As regards the asbestos, the situation has not changed.

138. Accordingly, the Governmental Committee proceeded to vote on a recommendation on the first ground of non-conformity, which was not carried (2 votes in favour, 4 against and 24 abstentions). It adopted a recommendation on the second ground of non-conformity (with 28 votes in favour, 2 against and 4 abstentions). Recommendation on the third ground of non-conformity was not carried (2 votes in favour, 1 against and 28 abstentions).

RESC 11§3 GEORGIA

139. The ECHR concluded that the situation in Georgia was not in conformity with Article 11§3 of the Charter on the grounds that:

- it has not been established that adequate measures were taken to overcome environmental pollution;
- the measures taken to ensure access to safe drinking water in rural areas were insufficient;

- it has not been established that adequate measures were taken to prevent accidents.

140. In its previous conclusions (2013 and 2017), the ECSR reiterated its request for information on the concrete measures taken, including comprehensive environmental legislation and regulations, as well as on the levels and trends with regard to air pollution, waste management, water contamination and food safety during the reference period. During the assessment in 2021, the ECSR noted that most information requested was not provided. It reiterated its requests for information and meanwhile concluded that the situation is not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to overcome environmental pollution.

141. In its conclusion 2017, the ECSR also reached a finding of non-conformity as regards access to safe drinking water in rural areas and requested comprehensive information on this point. The information requested was not provided and the ECSR reiterated that the situation was not in conformity with Article 11§3 of the Charter on the ground that the measures taken to ensure access to safe drinking water in rural areas have been insufficient.

142. In its previous conclusion, the ECSR asked for information on the measures taken and the trend in the number of road accidents as well as domestic accidents and accidents during leisure time (Conclusions 2017). The ECSR warned that a finding of non-conformity would ensue should the information be withheld. The information requested was not provided and the ECSR concluded that the situation was not in conformity with Article 11§3 of the Charter on the ground that it has not been established that adequate measures were taken to prevent accidents.

143. In Conclusions 2009 the ECSR concluded that the situation in Georgia was not in conformity with Article 11§3 of the Charter on the grounds that it has not been demonstrated that adequate measures have been adopted in the field of environmental health, on tobacco consumption, alcohol use, drug abuse, food safety or to prevent accidents.

144. In Conclusions 2013, 2015 and 2017 the ECSR concluded that the situation in Georgia was not in conformity with Article 11§3 of the Charter on the grounds that it has not been established that adequate measures have been taken to ensure access to safe drinking water in rural areas.

145. In 2011 and 2014 (in the follow up to Conclusions 2009 and 2013) the Governmental Committee invited the Government to provide additional information in its next report and decided to await the next assessment of the ECSR.

146. The representative of Georgia presented the following information:

“3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents. Immunization:

From the point of view of the Government of Georgia, immunization is a top public health priority. This is clearly proved by a significant increase of funds allocated to the immunization program in 2020 - 166 million GEL (in 2012 - 4 million GEL and in 2019 - 22,800 million GEL).

Vaccines against the following 13 diseases are currently included in the immunization schedule in the country: tuberculosis, hepatitis B, diphtheria, measles, tetanus, poliomyelitis, measles, mumps, rubella, Hib (Hemophilus influenza), Rota virus, pneumococcal infection, papillomavirus infection. Last years the following 6 new vaccines have been added to the immunization calendar: in 2013 - Rota virus vaccine, at the end of 2014 - PCV10 (with GAVI support), in 2015 - IPV (Penta vaccine replaced with Hexavalent vaccine), in 2016 - bivalent polio vaccine (bOPV). In 2017, HPV vaccination was launched in 4 territories of Georgia (Tbilisi, Kutaisi, Adjara, Abkhazia), with the aim of inclusion of 9-year-old girls in the demo program. Since September 2019, human papillomavirus vaccination (APV) has been introduced throughout Georgia for 10, 11 and 12 year old girls. Since July 2020, at the age of 18 months and 5 years, the booster vaccines bOPV, DPT and DT have been replaced by a quadrivalent vaccine (DaPT-IPV).

All vaccines, included in the National Vaccination Calendar, are free for the general public. To ensure high quality and safe immunization, the State procures only those vaccines that are pre-qualified by the World Health Organization. Due to the Covid-19 pandemic situation, the annual target coverage

of 95% could not be reached. Georgia has been certified as a country free from wild polio virus since 2002. Based on the data of 2019-2020, the World Health Organization recognized Georgia in 2021 as a country free of rubella.

In 2020, the electronic immunization module was finalized and adapted in the country to improve the vaccine registration process and issues of immunization supplies and vaccine management. Various analytical tools have been included in the system.

Mental Health

In order to improve the coordination and supervision process of state policy in the field of mental health, there was created a Council for Mental Health Policy in 2013. In 2021, "National Strategy and Action Plan (NAP) for 2022-2026 was adopted by the Government of Georgia which sets strategic objectives and policy directions for improving mental healthcare system in Georgia.

A Program on Mental Health operates under the State Healthcare Program, adopted annually by the Decree of the Government of Georgia. The Program aims at increasing geographic and financial accessibility of the population of Georgia to the psychiatric services. The Program provides for an outpatient psychiatric services, psycho-social rehabilitation, short-term interventions in psychiatric crises, with services of the community-based mobile team for persons with severe mental disorders, acute and long-term psychiatric inpatient services for children and adults, shelters for persons with mental disorders. The program provides the patients with treatment and additional services (safety and security), where there is a court decision concerning person's hospitalization for coercive psychiatric treatment, based on Article 191 of the Criminal Procedure Code of Georgia.

The Ministry of Health is making efforts in the following directions: Improving the infrastructure of mental health care institutions; Protecting the rights of beneficiaries in mental inpatient facilities; Decentralization of mental health services and raising public awareness to reduce stigma towards people with mental health problem.

As a result, the principles underpinning the organization of mental healthcare systems have shifted away from a reliance on long stay institutional care in asylums (esailems), where the overarching concern had been to protect society from potential "harm", to a system where the bulk of care is being provided through the development of community-based centers and mobile teams to help support people with mental health problems.

From 2018, Financing of community-based services has been increased. In particular, 54% of the budget resources has been directed to community-based services and throughout the country about 31 community-based mobile teams is functioning and as a result, more beneficiaries are able to use the mobile services in Tbilisi and in the regions as well.

In 2021, shelters for 6 beneficiaries were launched in Tbilisi and Kakheti. It is planned to launch four more new shelters this year. Small family-type homes for six beneficiaries began operating this year. As part of the technical assistance provided by the French Agency for International Development, the process of reviewing, updating and harmonizing the legislation on mental health legislation with the EU legislation is underway. The main focus is on the detention of persons with mental disorders, their treatment, care for them, the mechanisms of appeal, as well as the legislation and regulations related to guardianship.

Healthcare and Social Issue Committee of the Parliament of Georgia and Ministry of health in collaboration with nongovernmental organizations and experts prepared amendment to the Law of Georgia on "Psychiatric Care", which envisages introduction of the new services and monitoring as well as assessment mechanisms that will gradually address existing challenges in terms of the protection of the rights of patients/beneficiaries.

The process of improving the infrastructure of psychiatric facilities has started and continues since 2016. The rehabilitation of Bediani and Surami clinics have been completed. New buildings were built at the Naneishvili Mental Health Center. The psychiatric ward of Batumi Medical Center was

rehabilitated. Measures for reconstruction and equipment of 2 psychiatric hospitals are planned in Tbilisi.

Drug abuse

According to the latest integrated Bio- behavioral surveillance survey the estimated number of injecting drug users is 52,500. The rate of prevalence among adults (18-65 years old) is 2,24%. This is a rather high rate – Georgia come third after Seychelles and Russia with the number of problem drug users. It should be emphasized that there is a clear trend of a steady increase in the number of PWID – such survey has been conducted in Georgia since 2009 and every two years the number of people who inject drugs increases by several thousand people.

Buprenorphine (Subutex and Suboxone) and heroine, especially its cheap variety – raw heroine (not pure heroine) are leading injecting drugs. Compared to the previous wave of the survey (2014), Buprenorphine consumption has almost doubled, while the heroine consumption rate has slightly decreased; the level of use of homemade injecting drugs prepared through mixing different medications bought from pharmacies – so-called Krokodil (Desomorphine), Vint (Methamphetamine) and Jeff (Methcathinone) – has sharply decreased. And a new injection drug has appeared – the so-called ‘niddles’ (‘Ephedra Vint’, the injecting drug prepared from evergreen Ephedra bush needles having a stimulating effect).

As for non-injecting psychoactive substances, consumption of cannabis (marijuana) and psychoactive medications is still very common among this population. Basically, they use psychoactive drugs with a dizzying effect. It should be noted that compared to previous years the rate of use of these medications has decreased.

In terms of the risk of HIV infection, PWID behaviors are basically divided into two groups. These are risk behaviors related to drug injection and sexual behaviors. Compared to previous surveys, the proportion of safe injection became better in every city; the practice of sharing previously used needles/syringes and other injecting equipment has decreased. As for a sexual behavior, condom use with paid and occasional sexual partner is high, however, using condom with a regular sexual partner still presents a problem.

It should be noted that the prevalence of HCV among PWID is much higher compared to HIV. The average indicator of HIV prevalence has actually not changed since 2015; the survey revealed 47 confirmed HIV positive cases. The previous waves of the bio-behavioral surveillance survey also demonstrated a high prevalence of Hepatitis C virus.

There is a state program for the treatment of drug addicts in the country. The services provided by the program include:

- Inpatient detoxification and first-line rehabilitation for opioids, stimulants, and other psychoactive substances in mental and behavioral disorders caused by consumption
- Implement replacement therapy and ensure the delivery of a replacement pharmaceutical product
- Providing psycho-social rehabilitation
- Inpatient services for mental and behavioral disorders caused by alcohol intake

Healthy environment

With the support of experts from WHO and EC Twinning GE 22 project "Strengthening the existing environment and health system in Georgia" was developed and approved the "Georgia National Environment and Health Action Plan 2018-2022 NEHAP-2.

The strategic objectives of the National Environment and Health Action Plan are:

1. Improving access to safe water and sanitation, including for each child;
2. Improving access to a healthy and safe environment to ensure increased physical activity for children and young people;
3. Reducing the harmful effects of air and indoor air pollution on the health of the population;

4. *Prevention of illness caused by exposure to chemicals;*
5. *Integrate health issues into climate change adaptation and mitigation policies.*

In cooperation with the Ministry of Environment Protection and Agriculture of Georgia, an air portal was launched, which was launched in January 2019 and on which public information on air quality monitoring was posted.

Outcomes and health recommendations for each contaminant according to international methodology.

The materials of the International Lead Prevention Week were prepared, a package of information for the lead biomonitoring protocol on the impact of lead exposure on humans, the sources of exposure and their prevention.

The MICS survey was conducted throughout Georgia with the support of the National Statistics Office of Georgia, the United Nations Children's Fund, WHO and DCJEC in order to protect the country from harmful exposure to the environment and prevent environmental diseases. The research round was expanded in terms of content and coverage, including a drinking water questionnaire, drinking water quality testing, and a blood lead study for children (blood lead studies for children ages 2-7) throughout Georgia. The children were included in the study on a random sampling basis and samples were sent for detection to the laboratory of the Italian Institute of Health. In the study of the blood sample on the lead content, the so-called the "gold standard" method is to measure the concentration of lead in the blood with an inductively coupled plasma mass spectrometer (ICP MS). According to the results, blood lead levels of 5 µg / dl were found in 41% of children, from 5 to 10 µg / dl in 25%, and > 10 µg / dl in 16%.

Tobacco and Alcohol

Georgia is a party to the WHO Framework Convention on Tobacco Control (FCTC) since 2006 and, thus, is committed to implement comprehensive tobacco control measures, including some of the time-bound WHO FCTC articles, the implementation deadline of which has been already breached.

Tobacco control is an important aspect for Georgia's EU integration process. One of the obligations under the EU Association Agreement signed in 2014, is effective implementation of the international agreements in the field of health, that are recognized by the parties, namely, the International Health Regulations and the WHO FCTC.

In 2013 in order to address the health and economic burden of the growing tobacco epidemic in the country, the Government of Georgia created the State Tobacco Control Committee, chaired by the Prime Minister of Georgia. The goal of the Committee was to develop and advocate new tobacco control policies, which is in line with the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) and with the standards of the European Union. As a result of the work of the Committee National Tobacco Control National Strategy (GoG ordinance #196 of 30.07.2013), a 5 year Action Plan (GoG Decree #304 of 29.11.2013) and amendments to 5 related laws in March 2013 were approved by the Government of Georgia. Recently, the National Tobacco Control Strategy 2021-2025 and Action Plan has been renewed.

In terms of tobacco control, national legislation is in line with EU legislation (Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014). The Law of Georgia on Tobacco Control (adopted on 29/12/2010 amended in 2017, 2018, 2019, 2020, 2021) provides a detailed definition of each type of tobacco product; envisages a total ban on smoking in public places and public transport, including taxis and private vehicles when minors are present. The law sets restrictions on sales of tobacco products, it foresees a total ban on tobacco advertisement, sponsorship, and direct promotion as well as brand stretching.

The Law of Georgia on Tobacco Control binds manufacturers and importers of tobacco products to submit specially approved "list of ingredients and emissions" to the National Center for Disease Control and Public Health (NCDC) of Georgia. The information should be submitted 3 months prior to placing the product on the market in accordance with the format provided by Order №01-20/N

(01.05.2018) of the Minister of Labor, Health and Social Affairs of Georgia.⁸ The annex of the Order №01-20/N that sets out the information that is to be submitted is similar to the annex defined in the Commission Implementing Decision (EU) 2015/2186. Work is underway to improve existing regulations and bring them closer to the Commission Implementing Decision (EU) 2015/2186.

Law of Georgia on Tobacco Control provides standards for packaging and design of tobacco products, including health and pictorial warnings with detailed description of technical features for application of the warnings. It should be noted that according to the legislation of Georgia, similar to the legislation of the European Union, health warnings on the package of tobacco products should cover no less than 65% of the front and back of packages. Pictorial and health warnings are separately regulated in Georgia without practicing combined health warnings. As a result, Georgian regulation on the precise position of the general warning and the information message on the tobacco products, as well as the technical specifications for the layout, design and shape of health warnings for tobacco products for smoking differs from the EU Directives. However, work is underway to introduce combined medical warnings and it is planned to submit a relevant policy document to the government in 2023.

Additionally, emissions are also under the regulation⁹ with maximum levels and measurement of nicotine, tar and carbon monoxide for cigarettes with and without filters. These standards are set by; Further, the tax and price measures are applied to tobacco products. Under the Association Agreement Georgia is implementing gradual approximation of excise tax rates on tobacco products. Moreover, the Law of Georgia on Tobacco Control also prohibits the sale of tobacco without standardized (plain) packaging from December 31, 2022. Administrative penalties are provided for violating the above mentioned prohibitions and the authority to enforce them is delegated to various state bodies such as the Ministry of Finance, the Ministry of Internal Affairs, and Municipal Agencies.

Current legislation on Tobacco Control sets strict standards and covers electronic cigarettes as conventional tobacco products. Therefore, all bans and regulations for cigarettes are also applied to electronic cigarettes. Therefore, technical standards for the refill mechanism of electronic cigarettes is not separately determined by the Georgian legislation. The work is under way to set detailed regulations for new tobacco products including electronic cigarettes.

The Law of Georgia on Tobacco Control and Law of Georgia on Advertisement envisages a total ban of direct and indirect tobacco advertisement, sponsorship, and promotion, in broadcast media, print media and the Internet. The ban is also covering brand stretching. (Directive 2003/33/EC)

Based on EU Action Plan on youth drinking and on heavy episodic drinking (binge drinking), Council Conclusions on Alcohol and health, EU Strategy to support Member States in reducing alcohol related harm, Council on a Community strategy to reduce alcohol-related harm, EU directives and WHO and CDC relevant documents, alcohol abuse prevention the draft strategy and action plan are in the elaboration process in Georgia. The components of alcohol strategy is incorporated in the Non-communicable Diseases Prevention and Control National Strategy 2022-2026 that is in the stage of final internal discussions before adoption in 2022. The Multi-sectoral Alcohol Strategy is planned to be finalized and endorsed by the GoG by the end of 2023.

In terms of drug abuse prevention, National Strategy of Drug Abuse Prevention 2021-2026 supports Georgia's commitments under the EU-Georgia Association Agreement, including paying special attention to the provisions of human rights, the fight against drug abuse, the fight against organized crime, the administration of criminal justice and health. Thus, requirements and objectives of the Council Recommendation of 18 June 2003 on the prevention and reduction of health-related harm, associated with drug dependence, Council Resolution **2000/C218/03** of 29 June 2000 on action on

⁸. Order №01-20/N, 01.05.2018 of the Minister of Internally Displaced persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

⁹. The Government of Georgia ordinance N150 of 06.03.2020 on "Extraordinary permissible norms of substances emitted from filtered and unfiltered cigarettes intended for sale in Georgia (except heating tobacco) (nicotine, tar, sparkling gas), rules for their measurement and regulation on the approval of the medical standards indicating the maximum permissible norms of nicotine content and tobacco products in the places of sale, as well as on the box / block and packaging and their delivery rules"

health determinants, drugs abuse prevention and harm reduction and EU Drugs Action Plan for 2009-2012 are met.

f) In the context of the COVID-19 crisis, please evaluate the adequacy of measures taken to limit the spread of virus in the population (testing and tracing, physical distancing and selfisolation, provision of surgical masks, disinfectant, etc.) as well as the measures taken to treat the ill (sufficient number of hospital beds, including intensive care units and equipment, and rapid deployment of sufficient numbers of medical personnel while ensuring that their working conditions are healthy and safe – an issue addressed under Article 3 above). Please indicate the measures taken or foreseen as a result of this evaluation.

In response to the rapid spread of infectious disease caused by the novel coronavirus (SARS-CoV-2) emerged in Wuhan (Hubei Province, China), on December 31st 2019 and for the prevention of the spread of COVID-19 cases in Georgia, the Government of Georgia took significant steps within a month before the first case of COVID-19 was confirmed.

Based on the recommendations of the World Health Organization and the U.S. Centers for Disease Control and Prevention, on January 31st, the definition of COVID-19 infection cases was approved and the country moved to active surveillance. Emergency operation center was set up at the National Center for Disease Control and Public Health.

From February 6 to February 14, various methodological recommendations and protocols related to COVID-19 were developed and approved, video lectures were launched and educational materials were circulated.

On March 16, the establishment of Clinical case management group of novel coronavirus (SARS-CoV-2) Infectious Disease (COVID-19) was approved, which developed a national guideline for the treatment of COVID-19.

Testing with PCR (polymerase chain reaction) method to detect COVID-19 in Georgia began on January 30 at the Richard G. Lugar Center for Public Health Research. The PCR method is considered to be a gold standard in the COVID-19 diagnostics. For today, 14 laboratories were conducting PCR testing.

In accordance with the recommendations of the World Health Organization, in February have conducted an assessment of hospitals readiness in terms of infection control and evaluated conditons and quantity of the ventilators and number of qualified medical staff. In total, 297 inpatient facilities (86% privately owned) operate across the country with 17,514 beds, out of which 2,290 are for intensive care and emergency medical services and own 2043 operating or reserved ventilators. 1749 are suitable for the management of respiratory distress syndrome. In total, 9000 beds were mobilized across the country to manage COVID-19.

In parallel with the preparation of the hospital sector, in order to prevent excessive utilization of emergency service by fever and respiratory symptoms patients and to effectively involve PHC settings in COVID management, a call forwarding service from emergency hotline 112 to family doctors has been set up. The MoIDPLHSA already has the practice of using this model during the flu pandemic.

In order to reduce the health risks to the population and spread of the infection, the government started creating quarantine spaces from March 4, which still ensures the placement of suspicious cases or the persons with high risk persons of the COVID-19. The quarantine zone includes 84 hotels across the country, bringing the total to more than 6,500 rooms. On March 23, the MoIDPLHSA determined terms and conditions of self-isolation/quarantine.

Epidemiological investigation group under the National Center for Disease Control and Public Health and the municipal Public Health Centers conduct on a regular basis contact tracing by compiling a

"history of contact map" of the patient within 24 hours after the diagnosis of COVID-19 in order to identify people in contact with the confirmed case.

An application developed by the Austrian non-governmental organization NOVID-20 and the Austrian company Dolphin Technologies, as an important tool for COVID-19 infected patients' contact tracing and prevention of the spread of the virus, is available in Georgia from April 16, 2020. The app allows users to find out if they have been in contact with a person infected with COVID-19.

Informational and educational materials were prepared, published and disseminated, including for ethnic minorities in Armenian and Azerbaijani languages; evidence-based educational materials from CDC, WHO and other international sources are being translated and adapted continuously. Visual materials, educational posts, infographics, video materials were developed and disseminated through the social network.

Proper management of hotline calls has significantly contributed to avoiding non-purposeful referral of patients to medical facilities. At the initial stage of the pandemic, under the conditions of informational shortage and panic, the majority of the population's calls was being directed exactly to 116 001 (Hotline of the National Center for Disease Control and Public Health) and 1505 (Hotline of the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia).

The Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia expresses special gratitude to all international partners (including governments of the United States, Germany, China, Japan, Korea, Estonia, Bulgaria, Lithuania, Czech Republic, Sweden, Great Britain, France, Türkiye; and international/donor organizations: World Bank, USAID, CDC, DTRA, WRAIR, DOD, ODC, INL, IAEA, WHO, UNDP, UNFPA, UNICEF, UNHCR, IOM, EU, Global Fund to Fight AIDS, Tuberculosis and Malaria, Czech Development Agency, Czech Caritas, SIDA, KFW, GIZ/BMZ) for their efforts and support rendered to the Ministry to efficiently respond to COVID-19 pandemic".

147. Several delegations noted that the information provided was mostly irrelevant from the point of view of the conclusion. It was stressed that only the response to the non-conformity should be provided and that only such information should be presented.

148. The representative of France stressed that the right to access to water is of key of importance and that there are programs available for dealing with the problem and for assisting the state and that action is already being taken.

149. The Governmental Committee proceeded to vote on a recommendation which was not carried (3 votes in favour, 4 against and 32 abstentions with respect to the first ground of non-conformity, 4 votes in favour, 1 against and 29 abstentions with respect to the second ground of non-conformity and 7 votes in favour, 3 against and 23 abstentions with respect to the third ground of non-conformity). It urged the authorities to provide the necessary information in the next report.

150. Some delegations stressed that such cases should not be assessed on merits but grouped for a decision for the persistent failure to provide relevant information and that it should be reflected in the new working methods. Some delegations suggested further that an automatic recommendation should apply for cases in which the information is not provided.

RESC 11§3 MOLDOVA

151. The ECSR concluded that the situation in the Republic of Moldova was not in conformity with Article 11§3 of the Charter on the grounds that:

- it has not been established that adequate measures were taken to overcome environmental pollution;

- adequate measures protecting the population from the risks of asbestos are not in place;
- the necessary measures were not taken to ban smoking in public places.

152. In 2017, the ECSR noted the deterioration of the indicators on air, soil and water quality and asked for information on the measures taken to address these issues, and on the levels of air pollution, contamination of drinking water and food intoxication. The information requested was not provided and the ECSR concluded that the situation was not in conformity with Article 11§3 of the Charter on the ground that it had not been established that adequate measures were taken to overcome environmental pollution.

153. In 2017, the ECSR concluded of non-conformity with Article 11§3 of the Charter on the ground that adequate measures protecting the population from the risks of asbestos were not in place and asked for clarification as to whether the use of asbestos in construction materials was prohibited or regulated, as well as for information on the results achieved in reducing the exposure of the population to asbestos. The ECSR noted in 2021 that a law adopted during the reference period (Law no. 141/2016) banned some, but not all types of asbestos, and that in fact the type of asbestos most prevalent in the Republic of Moldova, chrysotile, remains widely available. It reiterated its request for clarification as to whether the use of asbestos in construction materials was prohibited or regulated, as well as for information on the results achieved in reducing the exposure of the population to asbestos. Meanwhile, the ECSR reiterated its conclusion that the situation is not in conformity with Article 11§3 of the Charter on the ground that adequate measures protecting the population from the risks of asbestos are not in place.

154. The Secretariat recalled that in 2005, the ECSR deferred its conclusions due to pending receipt of the information on the air pollution, ionising radiation, on the monitoring mechanism for noise levels, on measures taken to improve and monitor the quality of drinking water, as well as on the ban on asbestos. The following conclusions in 2009, 2013, 2015 and 2017 were all of non-conformity, on various grounds. The inadequate measures to protect the population from the risks of asbestos were the ground for non-conformity in 2009, 2013 and 2017. The ground that there are no adequate measures taken to overcome environmental pollution appears for the first time in 2021, following persistent lack of information.

155. The Governmental Committee examined the case in 2011, with regards to conclusions 2009, invited the Government to provide all relevant information in its next report and decided to await the next assessment of the ECSR. In 2014, in the follow-up to conclusions 2013, some information was provided in writing but the Governmental Committee has not discussed the situation.

156. No information has been provided and the representative of Moldova was not present for the discussion.

157. The Governmental Committee adopted a recommendation (with 26 votes in favour, 0 against and 1 abstention with respect to the first ground of non-conformity and 27 votes in favour, 0 against and 5 abstentions with respect to the second ground of non-conformity and 28 votes in favour, 0 against and 5 abstentions with respect to the third ground of non-conformity).

RESC 11§3 ROMANIA

158. The ECSR concluded that the situation in Romania was not in conformity with Article 11§3 of the Charter on the ground that efficient immunisation and epidemiological monitoring programmes were not in place.

159. In 2017, the ECSR noted that there was a dramatic decrease in the immunisation coverage at national level for the vaccines included in the National Immunisation Programme and that Romania experienced severe measles outbreaks affecting infants too young to be vaccinated. Romania also faced critical vaccine shortages or delays. Consequently, the Committee asked for updated information on the coverage rates as well as on the impact of the measures taken to increase the immunisation coverage in the next report, while reserving its position on this point in the meantime.

160. The information requested was not provided in 2021 and the ECSR concluded that the situation was not in conformity with Article 11§3 of the Charter on the ground that efficient immunisation and epidemiological monitoring programmes were not in place.

161. The Secretariat recalled that in 2003, 2005, 2009 and 2017 the Committee deferred its conclusion pending receipt of the information requested with regards asbestos, smoking, alcohol abuse, food safety, noise pollution as well as on epidemiological monitoring and immunisation. In 2013, the Committee concluded that the situation in Romania was in conformity with Article 11§3, although receipt of the information requested was pending.

162. The Governmental Committee has not examined the situation.

163. The representative of Romania presented the following information:

“Physicians in maternity clinics, individual medical practices and school medical practices, regardless of the form of organisation of health care within the public or private system and regardless of the health insurance company with which they have a contract for the provision of health services, are obliged to ensure the correct vaccination of children and to enter the data on vaccinations carried out under the National Immunisation Programme in the National Electronic Vaccination Register.

The recommended vaccination scheme for children and adolescents is set out in the National Immunisation Programme approved by order of the Minister of Health.

The vaccination calendar is reviewed regularly and the cost of vaccines in the national programme is covered by the state. The vaccines included in the National Vaccination Calendar protect against diseases such as hepatitis B, tuberculosis, diphtheria, tetanus, convulsive cough, poliomyelitis, pneumococcal disease, cervical cancer, measles, mumps or rubella.

In the new National Health Strategy 2022-2030, which is about to be approved, a number of measures are foreseen in order to improve immunization:

- *Improve the performance of the national immunisation programme including by increasing the acceptability and sustainability of vaccination;*
- *Improve the coordination capacity of Ministry of Health structures to ensure an optimal vaccination rate, focusing on development of the strategic and regulatory framework for coordination of vaccination, development and approval of the National Immunization Strategy and the action plan, ensuring adequate funding for all components of the vaccination process within a multiannual budgetary framework (e.g. eligible population cartography, information, education, population mobilisation, vaccine procurement, storage, distribution)*
- *Strengthen/develop management capacity and/or implementation of national immunisation programme according to the national schedule in force and ensure resources needed for an improved national immunisation schedule;*
- *Predictable and timely procurement of vaccines as required needs;*
- *Strengthen surveillance capacity for post-vaccine adverse reactions, information and early warning at national level and in the health system.*

The percentage of children vaccinated according to schedule is below the optimal level for vaccines administered through family doctors, given that there were discontinuities in the supply of organic products or they were purchased in insufficient quantities.

In 2020, HPV vaccination was monitored monthly. In the first and fourth quarters, the development of influenza vaccination campaigns was also monitored.

In August 2020, the activity of estimating the vaccine coverage at the age of 12 months for children born in July 2019 was carried out. The vaccination history for 13,618 children was assessed, representing 89.9% of the respective cohort of live births. Of the 13,618 children, 8025 (58.9%) come from urban areas and 5593 (41.1%) come from rural areas.

For the BCG vaccine (against tuberculosis), vaccine coverage is optimal (over 95%) both in total and in terms of residence.

In the first quarter of 2020, the flu vaccination campaign for people at risk groups continued with a vaccine distributed free of charge by the Ministry of Health for the 2019-2020 season (started in September 2019) and 157,070 people were vaccinated against influenza. In the third quarter of 2020, 1,760,663 people have been vaccinated against the flu by the end of the year.

In Romania, the National Vaccination Information Month campaign is celebrated during the month of April every year. This campaign aims to highlight the need to raise awareness of the benefits of vaccination, to ensure that everyone is protected from vaccine-preventable diseases.

The target groups identified for the campaign in Romania were the general population and professionals in the health and social care fields.

Another recent vaccination promotion campaign was organized in 2019 by the Ministry of Health together with UNICEF in Romania - "Childhood, the most beautiful gift". The purpose was to inform parents and the general public about the importance and benefits of vaccination, which saves millions of lives each year worldwide. The main objective was to recover the vaccination of children according to the National Vaccination Program. The campaign was also supported by the World Health Organization.

The campaign was a continuation of the door-to-door vaccination information carried out by the Ministry of Health in partnership with the World Health Organization and UNICEF in several vulnerable communities in Mehedinți and Bacău counties. These campaigns were also attended by representatives of the Public Health Directorates, who replicated this model of campaign in other counties.

During the information sessions, a team of specialists, consisting of family doctors, epidemiologists and psychologists, presented the parents with information about the benefits of vaccination and the risks of non-vaccination and answered their questions. The MMR (measles-mumps-rubella) vaccination rate has thus increased in these communities to over 90%."

164. The Governmental Committee urged the authorities to provide all relevant information in its next report and decided to await the assessment by the ECSR.

Article 12 – Right to social security

Article 12§1 – to establish or maintain a system of social security.

165. The Secretariat stated that in this cycle and as regards this provision, the 'most common ground of non-conformity – is inadequate minimum levels of social security benefits. Inadequate minimum levels are still the main ground of non-conformity. For this ground the cases that ARE SELECTED are not simply inadequate, but moreover in those cases the levels fall below 40% of the median equivalised income. That is the case in this cycle for: Estonia, Hungary, Latvia, Romania, Montenegro, In the case of Georgia and Armenia, the issue is about the fact that the right to social security as such right is not guaranteed. This is due to a different series of problems in the system of the system of social security in both countries, including the insufficient number of branches.

RESC 12§1 ARMENIA

166. The ECSR concluded that the situation in Armenia was not in conformity with Article 12§1 of the Charter on the ground that the right to social security was not guaranteed to all workers and their dependents.

167. The ECSR recalled that Article 12§1 guaranteed the right to social security to workers and their dependents including the self-employed. States Parties must ensure this right through the existence of a social security system established by law and functioning in practice. Social security, which includes universal schemes as well as professional ones, includes contributory, non-contributory and

combined allowances related to certain risks. These are benefits granted in the event of risks which arise but they are not intended to compensate for a potential state of need which could result from the risk itself. A social security system exists within the meaning of Article 12§1 when it complies with the following criteria, and inter alia as regards the personal scope: the social security system must cover a significant percentage of the population for the health insurance and family benefit. Health coverage should extend beyond employment relationships. The system should cover a significant percentage of the active population as regards income-replacement benefits, such as sickness, maternity and unemployment benefits, pensions, and work accidents or occupational diseases benefits.

168. In 2017 the ECSR noted that primary healthcare was provided free of charge to all residents (universal healthcare system). However, in the absence of information concerning the personal coverage of secondary and tertiary medical care it considered that it had not been established that the social security system covered a significant percentage of the population for the health insurance, as required by the Charter. The ECSR noted from the 2021 report in this regard that no system of secondary and tertiary medical assistance free of charge or at discounted prices has been put in place. Primary medical assistance is provided at outpatient-polyclinic institutions and is free of charge for the entire population, whereas specialised inpatient medical assistance is free of charge only for certain groups. The Committee also notes from MISSCEO that while primary care is universal, secondary and tertiary care is provided only assigned groups. The ECSR considered that under Article 12 the social security system must cover a significant percentage of the population for the health insurance. The ECSR also referred to its conclusion under Article 13§1 of the Charter where it noted that many families do not have access to medical care. The ECSR considered that it has not been established that the personal coverage of secondary and tertiary medical care was adequate.

169. The Secretariat recalled that following a deferral in 2009, in 2013, the Committee noted that the situation in Armenia was not in conformity with Article 12§1 of the Charter on the grounds that personal coverage of medical care was insufficient and the minimum level of old age benefit was inadequate.

170. In 2017, The Committee concluded that the situation in Armenia was not in conformity with Article 12§1 of the Charter on the grounds that:

- it has not been established that the social security system ensures an adequate health care coverage;
- the level of social invalidity pension is inadequate;
- it has not been established that the level of unemployment benefits is adequate.

171. In 2014 (with respect to Conclusions 2013), information was provided but the Governmental Committee did not examine the situation.

172. The representative of Armenia presented the following information:

“1. Medical care

Primary healthcare services are provided free of charge for all groups of the population. Many services within the secondary and tertiary healthcare, i.e. hospital surgical-therapeutic treatment (except medical services provided using the latest and expensive technologies approved by the order N 57-N of Minister of Health, September 28, 2013), hard-to-reach diagnostic tests, state-guaranteed free and preferential dental care services are free of charge for those included in the list of socially vulnerable and special groups (Government Decree N 318 of March 4, 2004).

Since 2019, both the list of beneficiaries of free secondary and tertiary medical care and the services provided have been expanded. In particular:

For the whole population the state budget covers:

- Since January 2019, the surgical treatment of patients diagnosed with malignant neoplasms,
Since February 2019, the program of thrombolytic treatment of acute ischemic stroke of the brain and mechanical thrombectomy,
- Since April 2019, the sanitary aviation service, the purpose of which is to provide the high quality emergency medical care to the population in remote regions, to transport the patient by helicopter and to organize specialized medical care in the leading medical centers of Yerevan.
- Since October 2019, the emergency cardiac surgeries (“Stent for Life” program),
- Since February 2020, the outpatient emergency care program in a hospital setting has been introduced, within the framework of which, the emergency medical care in a well-equipped medical organization that does not require 24-hour supervision is served by the emergency medical service in the reception.

For socially vulnerable and special groups:

The insecurity threshold of the family entitled to receive medical care within the state order has been reduced to "28.01" from "30.01", thus expanding the list of beneficiaries.

Radiation treatment with a medical linear accelerator of more than 15 MeV is now covered by the state budget. For other groups of the population the mentioned radiation treatment is carried out on preferential terms, applying the principle of co-payment. Hospital care and services for children up to 18 years old are fully provided within the framework of the state budget. Previously this was the case for children up to 7 years old.

The Government has also initiated the process of introducing universal healthcare insurance by the end of 2023 (Government Decree N 1902-L of November 18, 2021).

2. Employment injury benefit

Part 1 of Article 202 of the Labor Code of the Republic of Armenia stipulates that if the employee’s health has deteriorated due to work performed (one is unable to perform the previous work because of an injury, occupational disease, other reasons for impairment of health) and if it is impossible to transfer the employee to another job commensurate with the profession/occupation, qualification and state of health, he/she shall, in the amount established by the legislation, be paid a benefit until the opinion of the state medical-social expert commission on the employee’s working capacity is received. If the employee is not insured against accidents at workplace and occupational diseases, the employer shall pay compensation for damage upon determining the degree of work disablement.

3. Family benefit

- *The Ministry of Labor and Social affairs appoints Family welfare enhancement benefit scheme based on the assessed needs of the family. There are three different welfare packages within the scheme: Family benefit, Social benefit and Emergency assistance. The scheme covers over 12% of the population and 22% of children.*

- *Family benefit is granted to families with children under 18 years old. The amount of the benefit depends on the assessed needs of the family. As of December 2021, there are around 57,700 beneficiary families with 138,200 children under 18. Around 20.72% of children are included in the benefit scheme. Average monthly benefit is AMD 31,350.*

- *Social benefit is granted to families without children under 18 years old. As of December 2021, the number of beneficiaries was around 24,700 families. Average monthly benefit is AMD 18,000. Simultaneously, there are universal benefits granted to families with children. In particular:*

- *One-time childbirth benefit is assigned to the parent/caretaker of a newly born child. For the first*

and second children the benefit is AMD 300,000, for the third and fourth is AMD 1,000,000, and for the fifth and every next child is AMD 1,500,000.

- *Childcare allowance for children under 2 years old is assigned to working parents and as of July 2020 parent living in a rural area, irrespective of the working status. The allowance is AMD 28,600.*

4. Unemployment insurance

The Ministry of Labor and Social Affairs has undertaken the process of initial research on the possibility of introducing an unemployment insurance system. The baseline assessment will be portrayed in the Employment strategy that is currently in the pipeline, and correspondingly, timeline and targets will be identified.

5. Disability, sickness benefits, social pension

- *On January 1, 2019, "minimum pension" was introduced and set at AMD 25,500, raising to AMD 26,500 on January 1, 2020, and from January 2022 AMD 28,600 for all beneficiaries and AMD 37,000 for disabled children.*

- *Since January 1, 2019, the amount of benefits for old age, disability, loss of a breadwinner has been increased to the extreme poverty line AMD 25,500 in 2019, AMD 26,500 in 2020 and AMD 28,600 since January 1, 2022.*

- *From January 1, 2020, the basic pension has increased from AMD 16,000 to AMD 18,000, and the value of one year of work experience for the first ten years has increased from AMD 800 to AMD 950.*

- *The minimum amount of maternity benefit is AMD 156,000 AMD, and the amount of benefit for temporary incapacity work depends on the number of days the person is incapacitated (minimum benefits are equal to the 50% of the minimum wage)."*

173. The Chair explained upon a request of the Armenian authorities, the difference between the social security and social assistance. He noted that the unemployment benefit is not provided for, which forms a part of the social security.

174. The representative of France stated that social security system is of key importance and that there should be a recommendation for this purpose, however, it should note efforts having been taken by the authorities so far.

175. The representative of Ireland underlined that Article 12§1 requires to have security system and that unemployment benefits exist. If a country signs up to this provision and this is a core issue under the Charter, it must ensure such benefits and this is not the case for Armenia.

176. The Governmental Committee proceeded to vote on a recommendation which was not adopted (with 15 votes in favour, 5 against and 13 abstentions). It acknowledged the efforts taken by the authorities and decided to send a message to Armenia that it has an obligation to introduce and maintain the system of social security.

RESC 12§1 ESTONIA

177. The ECSR concluded that the situation in Estonia is not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum level of sickness benefit was inadequate;
- the minimum levels of unemployment allowance and unemployment insurance benefit were inadequate;
- the minimum level of contributory pension was inadequate.

178. As regards the sickness insurance benefit, the average daily benefit has increased, however the ECSR observed that these levels, again, fall below 40% of the median equivalised income. Therefore, the Committee reiterated its previous finding of non-conformity as regards the adequacy of sickness benefit.

179. The ECSR further noted from the report that the beneficiaries of unemployment allowance and unemployment insurance benefits always have access to subsistence benefit and needs based family benefit. However, since the minimum levels of both unemployment allowance and unemployment insurances benefit fall below 40% of the median equivalised income, the ECSR does not take into account their aggregation with others benefits and therefore, their levels remain inadequate and the situation is not in conformity with Article 12§1.

180. As regards the contributory old age pension, the ECSR considered that these levels are inadequate as they fall below 40% of the median equivalised income. Therefore, the situation is not in conformity with Article 12§1.

181. The Secretariat recalled that it was a long-standing non-conformity, in which level of various income replacement benefits were found to be extremely low. In particular, the pension levels led to non-conformity in 2006, 2009, 2013 and 2017. The level of the state unemployment allowance was found manifestly inadequate in 2004, 2013 and 2017. The level of sickness benefit was found inadequate in 2017, after the ECSR reserved its position on this point twice pending receipt of information.

182. In 2005, 2007, 2009 and 2011 the Governmental Committee took note of the information provided by the Estonian delegate and decided to await the next assessment of the ECSR.

183. The representative of Estonia presented the following information:

“The sickness benefit is a financial compensation paid to an insured person on the basis of a certificate for sick leave. Based on this certificate, the employer and the Health Insurance Fund will pay to the person the benefit for temporary incapacity to work. The employer calculates the amount of the sickness benefit on the basis of the average wage in the last six months. The Health Insurance Fund calculates the benefits for incapacity to work based on the data of social tax calculated or paid for the beneficiary in the calendar year preceding the start date of the incapacity to work indicated in the incapacity certificate.

The minimum sickness benefit rate depends on the salary and minimum monthly wage rate. The sickness benefit rate is 70% of the wage rate. In Estonia, the minimum wage established by the Government is negotiated between Estonian Trade Union Confederation and Estonian Employers' Confederation. The amount negotiated is approved by the Government based on subsection 29 (5) of the Employment Contracts Act. The minimum monthly wage is established for the previous budgetary year. If the person has not worked in the calendar year preceding their illness and no social tax was paid or calculated for them, their average income is deemed to be equal to the minimum monthly wage established by the Government.

The minimum wage in Estonia has been gradually increasing over the years: from 430 euros in 2016, to 540 euros in 2019, and 654 euros in 2022. Given that the minimum wage has increased almost every year, the minimum rate of sickness benefit amount has also increased.

The minimum rate of sickness benefit in Estonia was 230 euros for employed and 209 euros for self-employed in 2016, and in 2019 it was 289 euros and 268 euros respectively. However, we are aware that the amount of sickness benefits in Estonia does not fully meet the Committee's expectations.

As for the minimum unemployment allowance and the minimum unemployment insurance benefit, we are aware that the amount of these benefits in Estonia do not fully meet the 40% of the median equivalized income requirement as indicated by the Committee. Both, the minimum unemployment allowance and the minimum unemployment insurance benefit rate also depend on the minimum

monthly wage rate. The minimum unemployment allowance and the minimum unemployment insurance benefit are 50% of the minimum monthly wage established for the previous budgetary year.

With the gradual increase in the minimum wage, both the unemployment allowance and the minimum unemployment insurance benefit have also increased. In 2019 the minimum unemployment allowance per month stood at 175 euros, in 2020 it was 189 euros and in 2022 292 euros. The minimum unemployment insurance benefit was 258 euros per month in 2019, in 2020 it was 270 euros, and in 2022 302 euros.

- In 2023 the 31-times daily rate of unemployment allowance will be 327 euros (EUR 654/31*50%).
- If the amount of the insured person's unemployment insurance benefit per calendar day is less than 50% of the minimum wage in the previous calendar year, then the benefit is topped up to this amount. In 2023, this minimum benefit amount per calendar day is EUR 10,9 (EUR 654/30*50%). The minimum benefit amount per month will depend on the number of calendar days in a given month.

In 2020, amendments were made in the Unemployment Insurance Act and in Labour Market Services and Benefits Act in regards of the unemployment allowance and the unemployment insurance benefit:

- From 1 August 2020, the amount of unemployment insurance benefit for the first 100 days increased up to 60% of nine months average daily remuneration a person has received 3 months before becoming unemployed, and 40% per each calendar day thereafter.
- From 1 January 2021, the amount of unemployment allowance also increased. At the moment the daily rate which is the basis for the calculation of unemployment allowance shall be established by the state budget for a budgetary year, however the 31-fold daily rate shall not be less than 50% (previously 35%) of the minimum monthly wage rate in force on 1 July of the year preceding the budgetary year.

To increase the economic well-being of the unemployed, from 1 September 2020, while registered as unemployed, the person may work on a temporary basis up to eight days in a calendar month but not more than 12 calendar months over a period of 24 months. The remuneration paid for temporary work in one calendar month and for each temporary work shall not exceed 40% of the minimum monthly wage of the calendar year. If all these conditions are met, the person can receive unemployment allowance and unemployment insurance benefit together with the remuneration paid for temporary work.

Also, eligibility or the amount to unemployment allowance and unemployment insurance benefit does not depend on the employment situation or income of other household members. Several household members may receive the unemployment allowance or unemployment insurance benefit at the same time.

As regards to the contributory old-age pension, the Estonian old-age pension has always been closely monitored so that low-income groups are not in poverty. One of the goals of the Estonian Government Coalition Agreement for the 2021-2023 is to increase the well-being of the elderly through extraordinary pension increases. The aim is to reduce relative poverty through pension increases and to provide greater security and opportunities to cope for pensioners.

On 1st April 2021, after annual pension indexation, the additional pension increase of the base part of the pension was 16 euros. There was also an increase of the pension supplement by 3.6 euros, which provides additional income for pensioners who have raised one or more children for at least eight years and whose child was born before 2013. Along with the extraordinary pension increase, the old-age pension with an average length of service of 44 years increased by 24 euros, from 528 euros to 552 euros, to which may be added a pension supplement for raising child in an amount of 3.6 euros per child. The national pension was increased by 30 euros after indexation, which increased the national pension from 225.18 euros to 255.18 euros.

Annual indexations have constantly raised Estonia's old-age pension. In 2022, the pensions increased approximately 7,9% as a result of indexation, which changed the average old-age pension to 595 euros and the national pension to 275.34 euros.

An additional increase of the old-age pension and an income tax exemption from 1 January 2023 have also been decided, which with pension indexation is expected to leave ca 970 euros more in retirement pensions per year for the elderly. From the beginning of 2023, basic component of the pension and national pension will extraordinarily increase by 20 euros. An increase in the basic part of the pension will help to improve the livelihoods of more than 321,000 pensioners and an increase in the national pension rate will help the subsistence of 3,200 national pensioners. The average pension will also be exempt from income tax.

In order to prevent the risk of old-age pension poverty, the Estonian old-age pension formula was changed so that it protects lower-income pensioners the most. From 2021 onwards, the fourth part of the pension formula, which is called the joint part is collected. The joint part is a symbiosis of length of service and insurance components. As a result of the change in the pension formula, 1 pillar pensions will not become as unequal as they would have become only with a three-part pension formula. Low-income pensioners benefit the most from the change, as the share of the component based on solidarity has increased.

We have analysed existing length of service component and insurance component of Estonian pension formula and we can say, that even with a very low income, the old-age pension mathematically cannot be lower than our national pension (national pension = 275,34 euros). If a person has fulfilled Estonian requirement of 15-year length of service, then their old-age pension will be higher than Estonian minimum pension (national pension). In 2022 we have approximately 310,000 old-age pensioners. Our average old-age pension is 595 euros per month. Only for 255 pensioners the old-age pension is lower than 300 euros per month. 3,460 persons all together have old-age pension below 350 euros per month. The distribution of Estonian pensions is even and close to the median.

Compared to the general income, the problem in Estonia is rather quick rise of wages. The old-age pension is calculated based on the social tax of previous years, so compared to the average salary, the Estonian old-age pension increase is always behind and increases later on. Also, the Estonian pension index consists of 80% social tax and 20% consumer price index. In general, the growth of the consumer price index has been slower than the growth of the average wage, which also leads to a slower pace of pension growth.

There is also additional support for pensioners living alone in Estonia as living alone is one possible risk factor for poverty. The benefit for a pensioner living alone will increase in 2022 from 115 euros to 200 euros. It is paid out once a year in October to those pensioners who live alone according to the population register and whose monthly available pension is less than 669 euros. The payment of the benefit for a pensioner living alone will help to improve the income of almost 90,000 pensioners.

As an additional measure, due to the increase in the cost of living in 2022, in November all old-age pensioners get extraordinary payment of 50 euros. The money is intended to make it easier to cope with the situation of rising prices.

We are confident that the Estonian old-age pension is secured against the risk of poverty and we are constantly working to improve the system”.

184. The Chair recalled that the information to be presented should be concise and relevant and does not need to include numerous statistics or data.

185. The representative of Ireland noted that the level of benefits were still inadequate and that no information was provided as regards pensions. The representative of Estonia confirmed that this was the case.

186. Governmental Committee proceeded to vote on a recommendation, which was not carried (with 6 votes in favour, 4 against and 19 abstention). It decided to invite the authorities to continue their efforts to bring the situation into conformity with the Charter.

RESC 12§1 GEORGIA

187. The ECSR concluded that the situation in Georgia was not in conformity with Article 12§1 of the Charter on the ground that the right to social security was not guaranteed to all workers and their dependents.

188. In its 2017 conclusion the ECSR considered that the situation was not in conformity with the Charter, since the social security system did not cover adequate number of risks as it did not provide family benefits, unemployment benefit and employment injury benefit. In 2021 the Committee noted that the report again referred to the Governmental Decree of 2013 according to which employers were responsible for providing employees with a safe work environment and if the damage to the worker's health was caused by the fault of the employer which is affirmed by court, employer was liable to reimburse the damage. The Committee notes that there still have been no changes to the situation and it therefore maintained its conclusion that this legal framework does not provide for a work injury and occupational diseases scheme in the meaning of Article 12 of the Charter. The Committee took note of the Law on Occupational Safety (2018) from MISSCEO, according to which employer is obliged to provide insurance from the work accidents at own expense, during the employment period. In the absence of employment injury, family benefit and unemployment branches, the Committee considers that the right to social security is not guaranteed to all workers and their dependents.

189. The Secretariat recalled that since 2009 the ECSR concludes that the situation in Georgia was not in conformity with Article 12§1 of the Revised Charter on the ground that the minimum levels of various income replacement benefits were manifestly inadequate. In 2017, in addition to the above grounds, the Committee concluded that the number of risks covered by the system of social security was inadequate, as there was no provision for family benefits, unemployment benefits or work injuries/occupational diseases benefits.

190. In 2011, with respect to Conclusions 2009, the Governmental Committee invited Georgia to provide additional information and decided to await the next assessment of the ECSR. In the follow-up to Conclusions 2013, it noted in 2014 that additional information would need to be provided in the next Report. In 2018 (with respect to Conclusions 2017), the Governmental Committee adopted a warning.

191. The representative of Georgia presented the following information:

“Social insurance mechanism does not exist in Georgia. The main approach of the Georgian social protection is to ensure basic social guarantees through social assistance to targeted groups, fully funded by tax revenue/state budget.

However, several vulnerable groups are identified and targeted through different social security schemes. These groups are PWDs, IDPs, war veterans, the elderly, those living in extreme poverty, and minors from impoverished households. In addition, residents of high mountain settlements are eligible for financial privileges. Various programs are being implemented in the country to strengthen families and prevent/reduce poverty.

The most important is the targeted social assistance program, which aims to improve the socio-economic situation of poor families identified by the assessment system (especially the empowerment of families with children). The targeted social assistance program is focused on helping families. Social protection initiatives play an important part in reducing poverty in the country: In addition, under the "Targeted Social Assistance Program" for children under the age of 16 living in socially vulnerable families with a rating score under 120001, a child benefit will be provided in

addition to the subsistence allowance, which has doubled since 2021 and amounted to 100 GEL. It is planned to increase the amount of child benefit in 2022.

In order to improve the demographic situation in the country, a targeted state program is being implemented, which provides monthly financial assistance to the third and subsequent child in the regions where there is no natural increase. In addition, financial assistance is provided to each newborn, one of whose parents has the status of a permanent resident of a highland settlement. A multi-child parent shall be a person having four or more children and/or adopted children. Multi-child parent status is granted to a parent without age restrictions. The state budget finances the electricity subsidy for a large family: a large family with 4 children receives 20 GEL per month as an electricity subsidy, and a family with five or more children for the 5th and subsequent children - an additional 10-10 GEL.

The State Program for Social Rehabilitation and Child Care, which is approved annually, defines a number of sub-programs aimed at strengthening families, aimed at improving the social functioning of families and preventing child abandonment, such as: crisis assistance programs for families with children in crisis, early childhood development, child rehabilitation / habilitation, day care centers, maternal and child shelters.

There is no definition of the term "dependent person / child" in national law. According to the Code of the Rights of the Child, a "child" is defined as "a minor under the age of 18", while according to the Civil Code of Georgia (Article 13057), „child – a person under the age of 16“. In addition, parents shall be entitled and obligated to raise their children, take care of their physical, mental, spiritual and social development, and bring them up as decent members of society, taking account of the best interests of the children (article 1198).

Within the framework of social protection programs, persons/children with disabilities receive financial assistance in the form of a social package; the amounts of the social package are permanently increasing. From 2022, the social package for people with severe disabilities/children with disabilities has increased to GEL 275. Children who have lost their breadwinner, in the case of one or both of the deceased parents, receive financial assistance up to 18 years - 100 GEL.

In addition, the state provides alternative services to children without parental care, such as foster care, adoption and, in extreme cases, placement in small family-type homes. There are a number of support services for people with disabilities/children and their families, such as rehabilitation programs, daycare sub-programs and more.

The Tax Code of Georgia establishes social benefits for employees, in particular: the taxable income received during a calendar year up to 3000 GEL for a person who is a single mother is not taxed. A person who has adopted a child (within 1 year of adoption); A person who has a foster child; Taxable income received from a budget organization in the form of a salary for a calendar year in a highland settlement by a person with three or more children permanently (who has three or more children under the age of 18) in a highland settlement is also not taxed.

Income of a person with one or two children permanently residing in a highland settlement (who has one or two children under the age of 18), the income tax payable on taxable income up to GEL 3,000 received as a salary during a calendar year is reduced by 50 percent. The income received by a person with disabilities from childhood, as well as persons with severe and profound disabilities during the calendar year up to 6000 GEL is not taxed”.

192. The representative of Ireland stated that there is a bold position of Ireland to recall that the social security system is crucial and is necessary under the Charter. He asked about the timeline for the implementation of the envisaged reform. The representative of Georgia explained that the reform shall be at the Parliament in 2023.

193. The representative of France admitted that many developments and efforts are going on domestically on that matter. She stressed that an encouragement should be sent to Georgia to continue.

194. The Chair, supported by North Macedonia, noted that it cannot be overlooked that at the moment the social security system did not exist in Georgia and that a recommendation should be a way to encourage and guide the authorities in this process.

195. Governmental Committee proceeded to vote on a recommendation, which was not carried (with 20 votes in favour, 4 against and 13 abstention). It decided to invite the authorities to continue their efforts to bring the situation into conformity with the Charter.

RESC 12§1 HUNGARY

196. The ECSR concluded that the situation in Hungary was not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum amount of the old-age pension was inadequate;
- the maximum duration of payment of jobseeker's allowance was too short.

197. The ECSR noted that the minimum amount of the old-age pension falls below 40% of the median equivalised income and therefore, is manifestly inadequate and the situation is not in conformity with the Charter on this point.

198. In 2017 conclusion the ECSR found that the duration of jobseeker's allowance, which was up to 90 days was too short. It noted from the 2021 report in this regard that the support of registered job-seekers can be managed dynamically, primarily by supporting employment or by involving the persons concerned in active labour market instruments. As a result, the extension of the period of payment of unemployment benefit was not on the Government's agenda. The ECSR recalled that, to be in conformity with Article 12 of the Charter, unemployment benefits must be payable for a reasonable duration (Conclusions 2006, Malta). It noted that there was no change to this situation and therefore, it reiterated its previous finding of non-conformity on the ground that the duration of unemployment benefit is too short.

199. The Secretariat recalled that the non-conformity persists since 2013. In 2014 and 2018, in the follow-up to Conclusions 2013 and 2017, the Governmental Committee took note of the information and explanations provided and decided to await the ECSR's next assessment.

200. The representative of Hungary presented the following information:

"Hungary's position on the current level of old age pension:

The Report already contains our previous position on the amount of the minimum old-age pension, which we will maintain and complete with the following.

On the basis of the Committee's justification, the minimum amount of the old-age pension should be increased because this amount does not reach 40% of the median equalized income (according to the data of the Eurostat, the poverty line is EUR 2.926 per year and EUR 195 per month corresponds to the 40% of the median equalized income).

We maintain our position that the social security pension system is primarily based on the principle of insurance, therefore the amount of the pension shall reflect the insurance performance during the active career. This constitutes to achieve the goal that old-age pension compensates for the loss of income due to the risk of old age.

Providing the same amount of pension to those who have paid contributions for a short period and/or after low income and to those who paid the public burden after a longer period and/or a higher income would serve as a strong disincentive to contribution payment.

Our statement written in the 17th National Report of Hungary that group of pensioners receiving a low amount of pension is heterogeneous group is still valid. The low amount of pension paid by the Hungarian Social Insurance Pension Fund may result from the short service period completed (e.g. partial pension), low salary earned during the career, or due to the fact that the insured person has not completed insurance periods exclusively in Hungary, and thus we only pay a part of the pension (according to the rule of proportionality).

A person who has fulfilled the minimum contribution payment obligation and has completed 40 years of service during the average wage calculation period (from 1988 until the date of retirement), might expect a pension of HUF 102,435 in 2022. If someone has completed only 20 years of service he/she might receive a lower pension of HUF 70,615. In case of 15 years of service (necessary for the partial pension) the amount of pension shall be HUF 55,685 in case the minimum contribution payment obligation has been fulfilled. Due to the calculation method built in the system and the principle of income replacement, long-term contribution payment after a low income results in a low pension amount.

Old age pensions in the same amount as the minimum pension have been awarded to 140 persons in 2017, 128 in 2018, 175 in 2019, 60 in 2020 and 63 persons in 2021.

For the sake of comparison, the total number of persons receiving old age pension was 2,027, 256 in 2017, 2,031,674 in 2018 and 2,053,600 in 2019 (source: Hungarian Central Statistical Office).

There is a built in mechanism in the pension system for those receiving a low pension, even though its applicability is limited because pension benefits are not social benefits. This equitable measure is based on the assessment of the life situation of the applicant which allows to increase the amount of the pension every three years or to grant a one-off payment once a year upon the request of the pension recipient. However this option is only available upon statutory conditions in order to reach those who are really in need

Measures aimed to reduce the poverty of elderly people:

In case the elderly person does not acquire entitlement or is only entitled to a low-amount benefit from the social insurance pension system, his/her cost of living is covered within the social system primarily by providing the old-age allowance. As it is mentioned in the Report (p. 169), the old-age allowance has no longer been linked to the amount of the old-age pension since 2017, the amount of which should be increased along with pensions. In accordance with this rule the amount of the old-age allowance in case of person without any income in 2022, if the applicant is not single, is HUF 28,505, if the applicant is single and he/she has not yet reached the age of 75 the amount of it is HUF 33,525, and if the applicant is single and has reached the age of 75 the amount of the allowance is HUF 45,255.

Since 2016 the government has repeatedly decided to grant a one-off allowance to recipients of pensions and pension-type benefits) in addition to their monthly benefits. Such measures included the Elizabeth and housing cost voucher from 2016 to 2019, pension premium four times since 2017, these measures are not built in the amount of the pension but contribute significantly to raising the living standard of pensioners . During the COVID-19 pandemic the government reintroduced the 13th month pension.

In conclusion, we ask the Commission to consider the following facts:

- The low amount of minimum old age pension affects only a very small part of elderly people;*
- Pensioners receiving the minimum amount of old age pension are also entitled to other types of social benefits (p. 169. of the Report) and the one-off allowance mentioned above.*

For the abovementioned reasons, the statement that Hungary does not provide sufficient resource to ensure a standard of living for the elderly above the poverty line is unfounded.

1. The maximum duration of job seekers' benefits

Hungary's position on the disbursement time of job seeker benefit:

Hungary's Fundamental Law states that the economy of Hungary shall be based on work which creates value, and on freedom of enterprise. Therefore Hungary strives to create the conditions to find work for those who can and want to work.

Hungary also wants to encourage job seekers to actively seek work themselves. The change in the name of unemployment benefit in 2012 to job seeker benefit and the maximization of the duration of the allowance in 90 days reflect this objective in order to encourage job seekers to become active. Hungary still do not intend to change this goal, so with employment policy measures it aims to ensure that everyone has a job already in or after 90 days.

Increasing the duration of job seeker benefit may reduce the activity of jobseekers. It is more difficult to return from the job seekers status into the labour market, and increasing the duration of the benefit would not facilitate this process. Increasing the period of job seeker benefit would be only a temporary solution, our aim is tough to offer people job opportunities. The possibility of requesting 80% of the allowance for the remaining period which is paid in one lump sum is also encouraging people receiving job seeker benefit to find job as soon as possible. It can be requested if the jobseeker establishes an employment relationship of an indefinite duration of at least four hours per day before the exhaustion of the period of payment.

Measures aimed to reduce unemployment:

The Hungarian Government's position is therefore clear, existing jobs must be maintained and new jobs should be created, even with subsidies when needed. In addition, the Government intends to return long-term jobseekers to the labour market through a number of subsidies, personalized employment services and labour market programmes. These include public employment, which is a special form of employment ("transit employment") aiming at work socialization that the public employee can successfully return and enter the primary labour market. In addition wage subsidies promoting employment may be provided specifically for severely disadvantaged workers and personalized employment services (support and service packages provided in a timely and targeted manner through an individual action plan with the help of a profiling system) reduce the risk of long-term unemployment. Furthermore, other targeted labour market programmes promote the smooth labour market integration of jobseekers.

This philosophy also includes job protection and creation measures which were taken to reduce the effects of the COVID-19 pandemic (e.g. sectorial wage support programme, job protection wage support programme, job creation wage subsidy, labour support for companies, compensation scheme for the self-employed, wage support programme for RDI sector workers).

The reduction in the payment period for the jobseeker's allowance did not cause a dramatic change in the long-term unemployment rate. As the data show: between 2011 and 2020, the long-term unemployment rate ranged from 25 to 30%. (In 2021, this rate jumped to 34%, mainly due to the COVID-19 crisis and the measures - mainly in the field of job protection - which were taken to reduce its negative effects). Although the share of jobseekers working in the primary labour market declined somewhat after the introduction of the 90-day benefit period, it increased by 4.4 percentage points by 2020 (from 38.8% in 2010 to 43.2% in 2020). Considerable increase cannot either be seen in the average length of registration: in the period 2011-2020 the average time while a jobseeker was registered was between 10 and 13 months.

In conclusion, the Hungarian unemployment figures have fallen far below the EU average thanks to the work-based society that has been operating since 2010, i.e. it is better to work than to apply for any kind of assistance or allowance. Data from the administrative labour register also show a reduction in unemployment in addition to an employment rate above the EU average. The post-epidemic labour market recovery from COVID-19 also proceeded rapidly. Therefore Hungary's goal remains to provide work and not to provide aid.

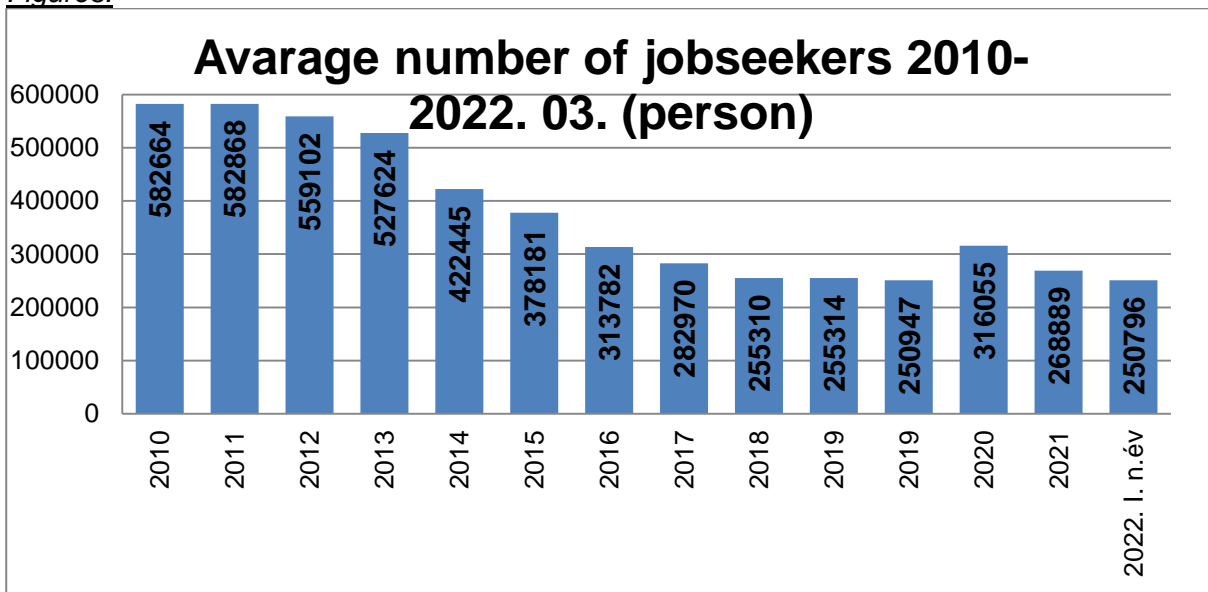
Job seeker aid before pension:

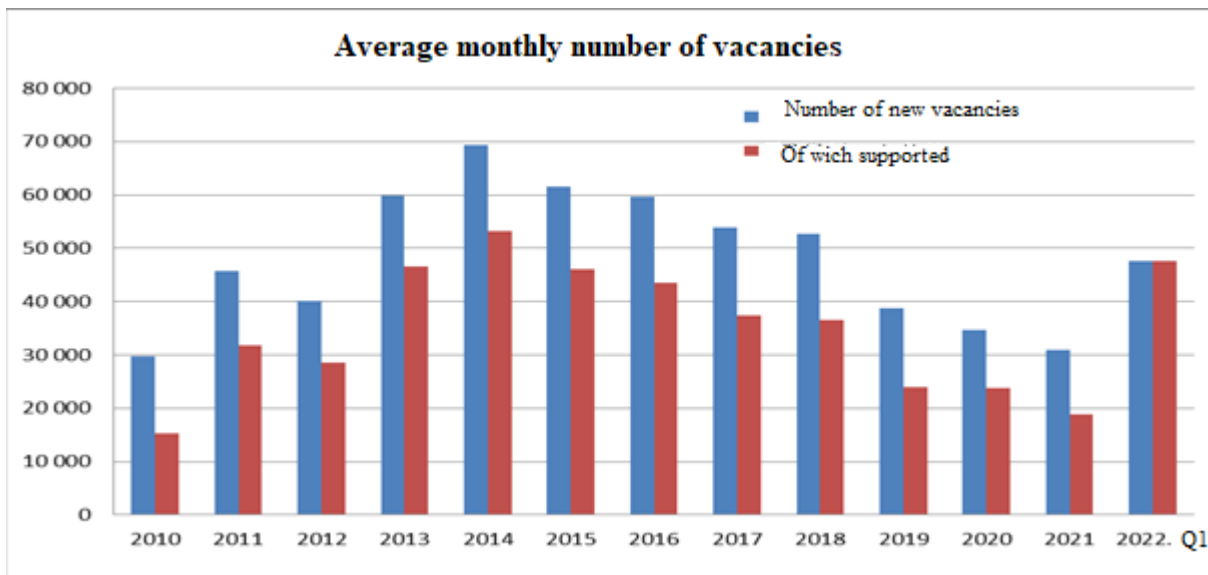
Job seeker aid before pension (hereinafter: job seeker aid) aims to support and improve life situation of unemployed people who are close to retirement age and received job seeker benefit earlier. The job seeker aid is conditional upon cooperation of the unemployed person, it is granted only if the job searching activity of the unemployed person has not been successful.

The amount of job seeker aid adjusts to the minimum wage, its daily amount should be calculated on the basis of 40 % of the minimum wage, and there has been no change in this regard. Although it is important to note that this benefit is part of the employment support scheme, where regarding the characteristic of the target group, differences can be found compared to job seeker benefit. Namely job seeker aid is granted for a longer period - until the jobseeker gains eligibility for old-age pension or for benefit for persons with changed working capacity. Also in case of job seeker aid the unemployed person is entitled to work while receiving the benefit. In case of work job seeker aid – contrary to job seeker benefit which is suspended for the working period regardless the length of the work, and in special cases such as in simplified employment, jobseeker aid is also paid during the period of employment period. In this case the payment of job seeker aid is suspended because of work and is reinstated after the termination of the employment period.

The possibility to pursue gainful activity beside job seeker aid was also taken into consideration during the determination of the amount of the benefit, because it gives opportunity to unemployed people to gain new entitlement period and therefore be able to receive job seeker benefit again. It can be summarized that the current regulations provide advantage to people receiving job seeker aid compared to those receiving job seeker benefit, thus preventing them from being left without income.

Figures:





Conclusion:

In conclusion, the measures presented above, particularly the job seeker aid before pension, are tailored to the needs and vulnerabilities of different social groups. We consider that these measures are appropriate to successfully reduce unemployment, because they aim to encourage employment.

The increasing of disbursement time of the job seeker aid would undermine this aim. It would be contradictory to the purpose of Art 12(1) of the Revised European Social Charter, as it would result in the increase of unemployment rate which would affect negatively the sustainability of the social security system”.

201. The representative of France noted that there were some positive developments and that the authorities were engaged and committed to increase the level of benefits. However, given the seriousness of the matter, the authorities should receive a relevant recommendation.

202. The Chair noted that only 60 pensions of all are of the minimal level. He asked how long a person needs to work to be entitled to the minimum pension. The representative of Hungary explained that a person needs to work 20 years and the amount of minimal pension is about 57 Euros. There were persons who earned the minimum wage. The average pension is much higher (around 380 Euros).

203. The representative of Armenia asked what would be a reasonable period of assistance from the point of view of the ECSR. The Secretariat explained that there was no one measure that would fit all and there are no rigid rules which were applied. Any encouragement to get back to the labour market cannot be achieved to the detriment of the access to the unemployment benefit.

204. Governmental Committee proceeded to vote on a recommendation, which was not carried (with 4 votes in favour, 4 against and 23 abstention with respect to the first ground of non-conformity and 1 vote in favour, 5 against and 23 abstentions with respect to the second ground of non-conformity). It decided to invite the authorities to continue their efforts to bring the situation into conformity with the Charter.

RESC 12§1 LATVIA

205. The ECSR concluded that the situation in Latvia was not in conformity with Article 12§1 of the Charter on the ground that the minimum levels of unemployment, old age and disability benefits were not adequate.

206. As regards unemployment benefit, the ECSR has previously noted in 2017 that the minimum level of unemployment benefit for a person earning minimum wage, for less than ten years, fell below 40% of the median equivalised income and therefore, was inadequate. The 2021 report indicated in this respect that unemployment benefit recipient is also entitled to receive state social benefits and disability pension simultaneously with the benefit as well as additional support from local governments. The ECSR observed that a person earning the minimum wage for less than 10 years would receive 50% of this wage as unemployment benefit which amounted to € 215 in 2019 and which, again fell below 40% of the median equivalised income. Therefore, its aggregation with other social assistance benefits would not bring the situation into conformity with the Charter and the ECSR reiterated its previous finding of non-conformity on this ground.

207. According to the report, the average amount of the minimum old age pension (with the supplement) in 2019 stood at € 186.9. The ECSR considered that this amount falls below 40% of the median equivalised income and is therefore inadequate.

208. The ECSR noted that the average amount of the minimum disability pension with supplement in 2019 stood at € 147, which is below 40% of the median equivalised income. Therefore, it considered that this amount was inadequate.

209. The ECSR also took note of the Comments by the Ombudsperson of the Republic of Latvia that certain improvement has been achieved in the field of social security through involvement of the Constitutional Court in that the minimum levels of both old age and disability pensions have been significantly increased in 2020 and 2021, following the judgments of the Constitutional Court, where the Court held that the norms defining the minimum amount of old age pension were non-conforming with the Constitution. According to the Ombudsperson, although the legislator has increased the minimum amount of old age pension, the norms for setting the minimum levels do not meet certain essential principles.

210. The Secretariat recalled that it was a second non-conformity on this ground, which the ECSR concluded in the light of the supplementary information provided in response to the non-conformity conclusion of 2017. The Governmental Committee has not examined the situation.

211. The representative of Latvia presented the following information:

“To explain the situation - first of all it should be stressed that the main source of income in case of disability and old age in Latvia is insurance pension. Minor part of population (economically non-active or marginally active), not entitled to pensions, receive state social security benefits in case of old age and disability. To avoid misunderstandings, this distinction needs to be made. Secondly - there have been efforts from the government (changes in the legislation) towards improving adequacy of both pensions and benefits.

The priority tasks of the Ministry of Welfare include promoting the improvement of the material situation of needy and low-income persons in order to reduce the risk of poverty and social exclusion in the society. In recent years the minimum income system has been improved by elaborating policy documents and legislation in order to increase the minimum income thresholds, including for social security benefit (for seniors, persons with disabilities and survivors) and minimum state social insurance pensions. Significant changes in increasing of the minimum thresholds were introduced in 2021, by setting the amount of minimum income thresholds based on justified methodology¹⁰ and socio-economic situation.

¹⁰ The changes stipulate that the relative method is used for the calculation of the minimum income thresholds. The relative method envisages calculating the minimum income thresholds – GMI threshold, needy household’s income threshold, low - income household’s income threshold, minimum state pensions (old age, disability and pension in case of loss of provider) amount and state social security benefit amounts (both for persons with disability and for persons in retirement age) - as a percentage of the median income (according to the equivalence scale chosen by Latvia - 1, 0.7, 0.7¹⁰), stipulating that the minimum income thresholds is set not lower than 20% of the median income. This method is socio-economically (statistically and mathematically) justified and based on the actual socio-economic situation, considering the income of different population groups.

On 17 September 2021, the Cabinet of Ministers approved the policy planning document "Plan for Improvement of the Minimum Income Support System for 2022-2024" submitted by the Ministry of Welfare, which envisaged setting the methodology for minimum income thresholds in normative acts, incl. stipulating that the amounts of the minimum income thresholds are to be reviewed annually from 2023 (currently the legislation provides for the review of the minimum income thresholds at least once in every three years). Funding for the annual revision of the minimum income thresholds will be decided in the budgeting process of 2023. Other initiatives are directed towards preparing proposals for changing funding principles and policies of the minimum pensions, while maintaining the role of individual contributions made during the working life in the adequacy of all pensions, and ensuring co-financing for local governments for provision of basic social assistance benefits – GMI and housing benefits.

Changes in minimum income thresholds in force from 1 January 2021 are as follows:

- 1) the income threshold for a needy household has been increased from EUR 128.06 to EUR 272 (50% of the median income). EUR 272 is the threshold for the first person of the household and for second and next persons in the household the coefficient 0.7 applies (EUR 190);
- 2) the maximum amount of the threshold for low-income households is set at EUR 436 (80% of median income) for first person in the household, for other persons in the household the coefficient 0.7 applies (EUR 305);
- 3) the income threshold of GMI has been increased from EUR 64.03 to EUR 109 (20% of the median income) for the first person in the household and for other persons in the household the coefficient 0.7 is applied (EUR 76);
- 4) also, the amounts of the state social security benefit (hereinafter - SSSB) have been increased:
 - from EUR 64.03 to EUR 109 for persons at retirement age (20% of median income);
 - from EUR 80 to EUR 109 for persons with disabilities (20% of median income), from EUR 122.69 to EUR 136 (25% of median income) for persons with disabilities since childhood. For persons with Group I and II disability a coefficient is applied in the calculation of the SSSB - 1.4 for persons with I disability group and 1.2 for persons with II disability group;
 - an additional supplement to the benefit is payable for persons not employed - for persons with I disability group in the amount of 30% of the Group I disability SSSB and for persons with Group II disability in the amount of 20% of the Group II disability SSSB;
 - in case of survivors: for children aged up to 7 years - from EUR 92.50 (EUR 106.72 for children with disabilities) to EUR 136 (25% of median income) and for children aged 7 and above, from EUR 111 to EUR 163 (30% of median income);
- 5) as for the minimum old age pension, calculation base has been increased from EUR 80 to EUR 136 (25% of median income), but for persons with disabilities since childhood - from EUR 122.69 to EUR 163 (30% of median income). The minimum old-age pension for each year of insurance is determined by applying a coefficient of 1.1 to the old-age pension calculation base. For each subsequent year which exceeds the insurance period required for awarding of an old-age pension, increasing the amount by two % of the calculation basis of the minimum old-age pension;
- 6) minimum disability pensions have been increased:
 1. for persons with Group III disability – from EUR 80 to EUR 136 (25% of median income), for persons with disability since childhood from EUR 122.69 to EUR 163 (30% of median income);
 2. for persons with Group I and II disability a coefficient is applied in the calculation of the disability pension - 1.6 for persons with Group I disability and 1.4 for persons with Group II disability.
- 7) also, minimum pension in case of survivors has been increased- for children up 7 years - from EUR 92.50 or EUR 106.72 for children with disabilities to EUR 136 (25% of median income) and for children from aged 7 from EUR 111 to EUR 163 (30% of median income).

Comparing with 2020 the amounts are much higher¹¹.

Raising the minimum income thresholds has a positive impact on about 140 thousands of people with low and very low income, of which the largest groups are minimum disability pension, minimum old-age pension and GMI benefit recipients.

Besides, as mentioned before, the Plan –providing annual revision of minimum income thresholds as from 1 January 2023 in the following order:

1) the amount of state social security benefit is planned to increase from EUR 109 to EUR 125 for persons at retirement age (20% of median income). This is a tax financed flat rate benefit granted to people who have not accrued social insurance rights. The share of recipients of state social security old age benefit in the population beyond working age is small- 0.4% in 2019, 0.45% in 2020. Most people in retirement age are covered by state insurance pensions.

2) the minimum state old age insurance pension calculation base is planned to increase from EUR 136 to EUR 157 (25% of median income), for persons with disabilities since childhood from EUR 163 to EUR 188 (30% of median income).

Each person with an insurance record of 15 years is entitled to full insurance pension minimum.

3) amounts of minimum disability pensions are planned to increase:

for persons with Group III disability – from EUR 136 to EUR 157 (25% of median income), for persons with disability since childhood from EUR 163 to EUR 188 (30% of median income);

In order to provide more support to pension beneficiaries by ensuring an increase in their income, the non-taxable pension minimum has been increased annually from 2018:

In 2018 – EUR 250 per month (in 2017 – EUR 235 per month);

In 2019 – EUR 270 per month;

In 2020 – EUR 300 per month;

In 2021 – EUR 330 per month;

In 2022 – EUR 350 per month (from 1 January 2022) and EUR 500 per month (from 1 July 2022).

Overall, the tax-free pension minimum has been increased by more than 50% between 2017 and 2022 (from EUR 235 to EUR 500 a month) that has a positive impact on net pension.

In Latvia, the state insurance pensions are indexed. Indexation takes place every year on the 1st of October, considering the actual consumer price index and 50% of percentage of the real increase in the social insurance contribution wage sum. A higher percentage of the real increase in the social insurance contribution wage sum is applied to old-age pensions with long insurance period.

The granted minimum pensions are indexed the same way as other pensions.

As a result of indexation, the average pension amount has increased during recent years as follows: in 2017 – by 4.39%, 2018 - from 5.09% to 7.20%, in 2019 - from 7.19% to 9.77%, in 2020 – from 3.8 to 5.78% and in 2021 – from 4.23% to 5.07%.

Although indexation is carried out every year on 1st of October, in 2022 indexation is planned a month earlier - on 1st of September.

¹¹ From 1 January 2020, **minimum amounts of old-age pension** have been determined, which depend on the basis of calculation of the minimum old-age pension of EUR 80 (for persons with disabilities from childhood – EUR 122.69), to which a certain coefficient is applied, depending on the length of the person's insurance period. As a result, for persons with length of insurance from 15 to 20 years, the minimum amount of the old-age pension is EUR 88, while for persons with disabilities since childhood – EUR 134.96. For persons with length of insurance from 21 to 30 years, the amount of the minimum old-age pension is EUR 104, while for persons with disabilities from childhood – EUR 159.5. If the period of insurance is between 31 and 40 years, the minimum amount of the old-age pension is EUR 120, and for persons with disabilities from childhood – EUR 184.04. However, if the period of insurance is 41 years and more, the amount of the minimum old-age pension is EUR 136, while for persons with disabilities from childhood - EUR 208.57.

As a result of the **increase of state social security benefit for persons with disabilities** – from EUR 64 to EUR 80 (for persons with disabilities from childhood – from EUR 106.72 to EUR 122.69) also the minimum disability pensions increased. In the case of Group I disability, the minimum disability pension is EUR 128 (for a person with a disability from childhood - EUR 196.30), in the case of Group II disability – EUR 112 (for a person with a disability from childhood - EUR 171.77), in the case of Group III disability – EUR 80 (for a person with a disability from childhood - EUR 122.69).

The pension (also minimum pensions) or part of it (which does not exceed 50% of the previous year's average wage subject to insurance contributions: EUR 349 in 2017, EUR 382 in 2018, EUR 420 in 2019, EUR 454 in 2020, EUR 470 in 2021, EUR 534 in 2022) is indexed considering the actual consumer price index or inflation and 50% of the real growth in the social insurance contribution wage sum.

To support the most vulnerable group of seniors - seniors living alone - from 1 January 2019 the spouse of the deceased pension recipient, who is also a pensioner, is granted an allowance for 12 months in the amount of 50% of the pension granted to the deceased spouse and an additional payment to pension for insurance period until 31 December 1995 (previously, a lump-sum payment in the amount of two pensions of the deceased pensioner was provided). In 2019, the allowance was received by 2.8 thousand of beneficiaries on average, while in 2020 – 5.7 thousand. The amount of monthly allowance disbursed in 2020 was EUR 169.63, which is on average by EUR 9.96 higher than in 2019. In 2020, the allowance was received more by women (4.2 thousand or 73%) than men (1.5 thousand or 27%).

From 1 October 2019, for the first time the amount of the supplement for each year of length of service accrued until 31 December 1995 (currently EUR 1.50 for old-age pensions granted until 1996) was indexed upon actual consumer price index and 50% of insurance contribution wage sum real increase (before 2019 indexation, the value of one insurance year before 31 December 1995 was EUR 1.50 for old-age and disability pensions granted before 31 December 1995, and EUR 1 for old-age and disability pensions granted before 1 January 1997).

From 1 January 2020, a member of the 2nd pension pillar who has not yet applied for an old-age pension has the right to choose how the accumulated pension capital will be used in the event he/she dies before the old-age pension is granted:

- transfer the state pension to the special budget (then the capital will be taken into account in calculating the survivor's pension);
- add to another person's pension capital accumulated in the 2nd pension pillar;
- leave for inheritance in accordance with the procedures laid down in the Civil Law.

When applying for an old-age pension, a member of the 2nd pension pillar must choose to combine the pension capital accumulated in the 2nd pension pillar with the capital of the 1st pension pillar and to receive one pension, or to purchase a life pension insurance policy in a life insurance undertaking of his/her choice.

Minimum disability pension amount, EUR per month

Disability Group	Coefficient	In 2020, EUR	In 2021, EUR
<i>Persons with disabilities since childhood</i>			
Group I	1,6	196,30	260,80
Group II	1,4	171,77	228,20
Group III	Base	122,69	163,00
<i>Other persons with disabilities</i>			
Group I	1,6	128,00	217,60
Group II	1,4	112,00	190,40
Group III	Base	80,00	136,00

Data Source: Ministry of Welfare

Amount of state social security benefit, EUR per month

<i>Persons with disabilities</i>				
<i>Disability Group</i>	<i>Coefficient</i>	<i>2020 EUR</i>	<i>2021 EUR</i>	<i>Amount for unemployed in 2021, +30% additionally for Group I Disability, +20% additionally for Group II Disability</i>
<i>Persons with disabilities</i>				
<i>Group I</i>	1,3 (2020) 1,4 (2021)	104	152,60	198,38
<i>Group II</i>	1,2	96	130,80	156,96
<i>Group III</i>	<i>Base</i>	80	109	
<i>Persons with disabilities from childhood</i>				
<i>Group I</i>	1,3 (2020) 1,4 (2021)	159,50	190,40	247,52
<i>Group II</i>	1,2	147,23	163,20	195,84
<i>Group III</i>	<i>Base</i>	122,69	136,00	
<i>Persons after reaching retirement age</i>				
		2020	2021	
		64,03	109,00	
<i>In the case of survivors</i>				
		2020	2021	
<i>Up to 7 years</i>		92,50	136,00	
<i>Up to 7 years for children with disabilities</i>		106,72	136,00	
<i>Above 7 years</i>		111,00	163,00	

The changes concern an average 20 thousand persons per month.

Data Source: Ministry of Welfare

There have not been significant changes regarding unemployment insurance, as during COVID 19 pandemic more stress was on other instruments (sickness, idle - time benefits, etc). Therefore, no major changes to the unemployment insurance system were introduced.

Temporary unemployment assistance benefit was introduced for the duration of COVID -19 pandemic. This was a temporary flat - rate benefit, extending the duration of unemployment benefit for 4 and later on - for 6 months.

The Social Security Code sets a standard that is 45% from standard beneficiary's wage for 13 weeks. As Latvian unemployment benefits are higher during first months of unemployment and decrease afterwards every 2 months, the gross replacement still is 45.2%. Although there is no minimum set for this type of benefit, the situation improves, as there is a social insurance contribution minimum in place. The replacement during the initial months of unemployment if compared to net wage is higher - 53%.

According to the data from the State Social Insurance Agency, the average duration of unemployment benefit is 4 months. During that period in most cases the replacement rate is adequate”.

	2016	2017	2018	2019	2020
Average benefit duration, in months	4.5	4.6	4.4	4.4	4.3

Data Source: Ministry of Welfare

212. The representative of Ireland stated that there should be a recommendation to urge Latvia to continue the efforts.

213. The Chair confirmed, upon a query from the representative of France and that the ECSR had assessed the information as had been examined by the Governmental Committee, as it follows its decisions and minutes from its meetings.

214. Governmental Committee urged the authorities to continue their efforts to bring the situation into conformity with the Charter.

RESC 12§1 MONTENEGRO

215. The ECSR concluded that the situation in Montenegro is not in conformity with Article 12§1 of the Charter on the grounds that:

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

216. As regards unemployment benefit, the ECSR noted that in 2019 the monetary compensation amounted to € 108, which, according to the report has been raised in comparison to the earlier amount, which was set at 40% of the minimum wage. The ECSR also noted in this regard that those unemployed persons who have acquired the entitlement to this benefit under the previous legislation, now repealed, have continued to receive 40% of the minimum wage as unemployment benefit. The ECSR noted that all these amounts fall below 40% of the median equivalised income. Therefore, they remain inadequate and the situation is not in conformity with the Charter on this point.

217. As regards the duration of payment of unemployment benefits to persons with an insurance period of less than ten years, the ECSR noted in 2017 that a person insured for less than ten years could only get unemployment benefits for 3 or 4 months, which the ECSR considered to be too short. It noted from the 2021 report in this regard that under the new Law on Mediation for Job Placement and Rights during Unemployment there have been some amendments to the duration of unemployment benefit. Namely, for the insurance period of nine months to 5 years the person is entitled to three months of unemployment benefit and to six months of benefit in case of insurance period of five to 15 years. The ECSR considered that three months of entitlement is still too short and therefore, the situation is not in conformity with the Charter.

218. The Secretariat recalled that the non-conformity has persisted since 2013 on various grounds, including the two current grounds of non-conformity (Conclusions 2013 and 2017). In 2014 and 2018, the Governmental Committee took note of the information and explanations provided and decided to await the next assessment of the ECSR.

219. The representative of Montenegro presented the following information:

“Regarding Committee’s conclusion that the situation in Montenegro is not in conformity with RESC Article 12 - Right to social security, Paragraph 1 - Existence of a social security system, on the grounds that:

- *the minimum level of unemployment benefit is inadequate;*

- the duration of unemployment benefit for the insurance period of up to five years is too short,

Government of Montenegro provides the following information:

Unemployed persons who are on the register of unemployed persons in the Employment Service of Montenegro exercise their rights in accordance with the Law on Employment Mediation and Rights during Unemployment ("Official Gazette of Montenegro", No. 24/19), which entered into force 30 April 2019.

One of the rights that an unemployed person can exercise under the conditions prescribed by this law is the right to financial compensation during unemployment.

The said law stipulates that the right to financial compensation is acquired by an insured person whose employment has been terminated without his consent or guilt, in the sense of a special law, and who has at least nine months of uninterrupted insurance or interruption in the last 18 months. .

The minimum length of insurance required to exercise the right to cash benefits has been changed in relation to the previously valid Law on Employment and Exercise of Rights from Unemployment Insurance ("Official Gazette of Montenegro", No. 14/10, 45/12, 61/13, 20/15 and 52/16), so it is now nine months instead of 12 months.

The cash benefit belongs to an unemployed person for a period that depends on the length of insurance, as follows:

- 1) three months if he has an insurance period of nine months to five years;
- 2) six months if he has insurance experience from five to 15 years;
- 3) nine months if he has insurance experience from 15 to 25 years;
- 4) 12 months if he has insurance experience from 25 to 35 years;
- 5) if he has more than 35 years of insurance experience - until re-employment, ie until the fulfillment of conditions regarding the age limit or insurance experience for exercising the right to old-age pension, in accordance with a special law.

With the adoption of the Law on Mediation in Employment and Rights during Unemployment in 2019, the amount of cash benefits during unemployment has been increased compared to the previous law. This law stipulates that the monetary compensation amounts to 120% of the calculated value of the coefficient determined by law and other regulations.

The contribution for pension and disability insurance is calculated on the amount of monetary compensation, in accordance with a special law.

The amount of financial compensation in the Law on Mediation in Employment and Rights during Unemployment is determined in accordance with the method of determining the amount of unemployment benefits, which is prescribed in the International Labor Organization Convention No. 102 on the Minimum Standard of Social Security.

The amount of financial compensation determined by the said law was increased in relation to the previously valid Law on Employment and Exercise of Unemployment Insurance Rights, which stipulated that the amount of financial compensation was 40% of the minimum wage determined in accordance with the law.

We note that in 2019, when the Law on Employment Mediation and Rights during Unemployment was passed, the minimum wage in Montenegro was € 193.

In the meantime, the amount of the minimum wage in Montenegro has increased, so that it now amounts to € 450.

According to the data of the Employment Service of Montenegro, in March 2022, the share of unemployed persons who are entitled to cash benefits in the total number of registered unemployed persons is about 22%, which is approximately the same level as last year.

Thus, in March 2022, this right was used by 11,792 unemployed persons.

The work program of the Government of Montenegro for the fourth quarter of 2022 envisages the adoption of the Law on Amendments to the Law on Employment Mediation and Rights during Unemployment.

Public consultations on the Draft Law on Amendments to the Law on Mediation in Employment and Rights during Unemployment have been completed and the formation of a working group for drafting the Law is underway.

Bearing in mind the Committee's Conclusion that the situation in Montenegro is not in accordance with Article 12 paragraph 1 of the Charter, and that the minimum level of unemployment benefit is inadequate, and that the duration of unemployment benefit is too short for up to five years. Amendments to the Law on Mediation in Employment and Rights during Unemployment will review the provisions of the same relating to the duration of the right to cash benefits, as well as the amount of cash benefits”.

220. The Chair and the representative of France noted that the Law of 2019 would hopefully constitute an important progress.

221. Governmental Committee noted the information submitted and decided to await the next assessment by the ECSR.

RESC 12§1 ROMANIA

222. The ECSR concluded that the situation in Romania was not in conformity with Article 12§1 of the Charter on the ground that the minimum level of unemployment benefit is inadequate.

223. The ECSR noted from the report that the unemployment benefit is an amount granted monthly and in a differentiated manner, depending on the contribution period. The minimum amount represents 75% of the value of the reference social indicator of unemployment insurance for persons with a contribution period of at least one year. The value of the reference social indicator in 2019 stood at 500 RON (€ 101). The ECSR noted that the reference social indicator has not changed since the previous reference period. 75% of this value amounted to € 75 in 2019. The ECSR considered that despite the substantial increase in the median equivalised income, the minimum level of unemployment benefit has remained unchanged and its level is manifestly inadequate as it falls below the poverty level. Therefore, the situation is not in conformity with the Charter.

224. The Secretariat recalled that this was a long-standing situation of non-conformity. Following a deferral in 2002, the ECSR concluded in 2004 and 2006 that the situation in Romania was not in conformity with Article 12§1 of the Revised Charter as the level of key social security benefits were inadequate. In 2009, the ECSR concluded that it had not been established that the adequacy of old age benefit, survivors' benefit and employment injury benefit were secured. In 2013, the ECSR concluded that the minimum level of unemployment benefit was manifestly inadequate and that it had not been established that the legislation provided an effective guarantee of protection against unemployment risk and that the minimum level of sickness benefit was adequate. In 2015, the ECSR concluded that it had not been established that the minimum level of sickness benefit is adequate and in 2017, that it had not been established that a significant percentage of the active population was covered by unemployment insurance.

225. In 2005 (with respect to conclusions 2004), the Governmental Committee took note of the information provided by the Romanian delegate and asked the Government to increase its effort to comply with Article 12§1 of the revised Charter. In 2007 and 2011 (in the follow-up to conclusions 2006 and 2009, respectively), it invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR. In 2014 (with respect to Conclusions 2013), it invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR. Conclusions 2015 and 2017 have not been examined by the Governmental Committee.

226. The representative of Romania presented the following information:

“Recently, the Romanian Parliament adopted the Law no. 225/2021 for the amendment of Law no. 76/2002 on the unemployment insurance system and employment stimulation, which will change annually, starting with March of each year, the value of the social reference indicator (SRI) with the average annual inflation rate of the previous year. The new law entered into force at 1st of March 2022. The social reference indicator is used both to establish unemployment benefits and the level of support in active measures, but also to determine the amount of social assistance benefits. By increasing the value of the social reference indicator, will be determined also changes in the amounts of social assistance benefits that are currently reported to SRI, respectively: social aid, family support allowance, social benefits for the disabled, minimum threshold of the child raising indemnity, accommodation allowance (adoption), monthly placement allowance, aid for refugee, etc. This change in the level of SRI will have a positive social impact by increasing the amounts of social assistance benefits and implicitly the standard of living of people receiving these rights”.

227. The Governmental Committee took note of the new developments and decided to await the next assessment by the ECSR.

Article 12§3 – to endeavour to raise progressively the system of social security to a higher level.

228. The Secretariat recalled that Article 12§3 requires States Parties to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§1 and 2 have not been met or if these provisions have not been accepted. The expansion of schemes, protection against new risks or increase in the level of benefits are all examples of improvement. A restrictive evolution in the social security system is not automatically in violation of Article 12§3. The assessment of the situation is based on the following criteria:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.);
- the reasons given for the changes and the framework of social and economic policy in which they arise;
- the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration);
- the necessity of the reform;
- the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);
- the results obtained by such changes.

229. Even if specific restrictive measures are, as such, in conformity with the Charter, their cumulative effect could amount to a violation of Article 12§3 of the Charter.

RESC 12§3 ARMENIA

230. The ECSR concluded that the situation in Armenia was not in conformity with Article 12§3 of the Charter on the ground that it had not been established that steps have been taken to raise progressively the system of social security to a higher level.

231. The ECSR noted that the Government’s report did not mention any development of the social security system during the reference period (2016-2019). The Government further confirmed that unemployment benefits were discontinued (in 2015) as part of the employment policy reform. The ECSR took note of the information provided by the Government on the active labour market programmes implemented during the reference period using funds formerly allocated to

unemployment benefit. It noted that the number of unemployed persons covered by these programmes was small and that no information was provided on possible assistance measures for unemployed persons who were not (or were no longer) covered by these programmes. In the light of the above, the ECSR considered that it had not been established that measures had been taken to progressively raise the system of social security to a higher level.

232. Following a deferral in 2009, in 2013 the ECSR concluded that the situation in Armenia was in conformity with Article 12§3 of the Charter. In 2017, again pending receipt of detailed information on any change to the social security system, and in particular on the reform of employment policy, the ECSR reserved its position on this point and deferred its conclusion. The Governmental Committee has not examined the case.

233. The representative of Armenia presented the following information:

“1. Medical care

All recent (after 2019) developments and reforms in the healthcare sector have been described as a response to the Article 12.1.

2. Family benefit

Most recent (after 2019) developments and reforms towards the enhancement of the family benefit scheme have been described above as a response to the Article 12.1. The amount of the Family welfare enhancement benefit and its threshold are revised by the Government each year. There has not been any revisions in the recent years.

At the same time, in accordance with the commitment undertaken by the Government program, the elaboration of the draft laws of the Republic of Armenia “On Making Amendments and Supplements to the Law on Social Assistance and the Adjacent Laws” has started which will form a legal basis to increase the types of social services provided, to increase their quality and targeting, as well as the social work will be put on a professional level. The drafts are planned to be submitted to the Prime Minister's Office by September 2022.

At the same time, the development of a new system for assessing insecurity has started (Decision N 1082-A of the Prime Minister of the Republic of Armenia "On the establishment of a commission and the approval of its composition") and it expects to be tested by May 2023. The new system will be based on the “hybrid method of means test” (hybrid means test), providing a comprehensive control of formal income and means, at the same time a mechanism for importing hard-to-control revenues. According to the cash income, the target of the new system for the poorest 20% of the population will be 75%, compared to 50.3% of the current system.

The one-time childbirth benefit has been revised too. Until July 1, 2020 in the case of the first child, the benefit was AMD 50,000; in the case of the second was AMD 150,000. Currently, the amount of benefit for the first and second children is AMD 300,000, for the third and fourth children is AMD 1,000,000, and for the fifth and every next child is AMD 1,500,000. The amount and coverage of childcare allowance for children under 2 years old has increased.

Before July 1, 2020, only working parents were beneficiaries of the allowance, afterwards also parents living in rural areas, regardless of their working status. On July 1, 2020, the amount of the allowance increased from AMD 18,000 AMD 25,500, and since January 1, 2022, it has increased to AMD 28,600. From January 2023, according to the Government program's action plan, the allowance will be made universal to all parents. By 2026, it is also planned to increase to equalize to the value of the food basket.

3. Unemployment assistance

According to data of the Unified Social Services, in 2019 around 7130 people, in 2020 around 5673 people and in 2021 around 3958 were included in the state-sponsored active labour market programs. In general, as a result of the programs 5420, 4416 and 2412 people became employed in 2019, 2020 and 2021 respectively. In general, as a result of the unemployment assistance by the Services, as of 2021 about 10,117 people became employed, which comprises around 11.7% of the registered job seekers and 17.4% of the registered unemployed.

By the autumn, 2022, the Government plans to adopt the Labor and Social Protection Strategy, which sets to increase the coverage of active labor market programs to 30% of registered unemployed by 2026. In parallel, the Employment Strategy, which is currently in the pipeline, envisages expanding the number of services provided, including introduction of an unemployment insurance.

4. Platform work

Currently, the Labor code does not cover platform work. To introduce regulations, the Ministry of Labour and Social Affairs has undertaken preliminary studies of the gig economy and the platform work, and will plan its further steps based on recommendations”.

234. The representative of France acknowledged the ambitious plans and strategies and encouraged the authorities to continue.

235. The Governmental Committee took note of the new developments, encouraged to continue its efforts and decided to await the next assessment by the ECSR.

RESC 12§3 ROMANIA

236. The ECSR concluded that the situation in Romania was not in conformity with Article 12§3 of the Charter on the ground that efforts made to progressively raise the system of social security to a higher level were inadequate.

237. The ECSR noted a number of negative developments during the reference period. In particular, the average number of unemployed persons receiving unemployment benefits and the replacement rate for old-age pensions continued to decrease. Furthermore, the social reference indicator was not adjusted (although projects to do so had been launched). The ECSR also noted that Emergency Ordinance 79/2017 made substantial changes to the fiscal burden of the social security contribution system and that these changes affected most workers. It considered that the reasons for and effects of the changes made by Emergency Ordinance 79/2017 were unclear. Nor had it been demonstrated that these changes pursued the legitimate aim of consolidating public finances so as to preserve the social security system and ensure that it was viable. In the light of the information available, the ECSR considered that the measures taken to progressively raise the social security system to a higher level were inadequate.

238. The Secretariat recalled that the ECSR deferred its conclusions in 2002, 2004 and 2006 due to lack of information requested on the new legislation and on the reform of the pension system. In 2009 the ECSR considered that Romania has endeavoured to raise progressively the social security system to a higher level and concludes that the situation was in conformity with Article 12§3. In Conclusions 2013, the ECSR assessed the results of application of this new legislative framework and deferred its conclusion pending information on how the reform had affected, in practice, the minimum level of pension benefit and its overall personal coverage as well as on the amendments made to other branches of social security (unemployment, sickness, invalidity). In 2017, the ECSR concluded that the situation was not in conformity with Article 12§3 of the Charter on the ground that efforts made to progressively raise the system of social security to a higher level were inadequate. The Governmental C has not examined the situation.

239. The representative of Romania presented the following information:

“The basis for calculating unemployment benefits and other measures to stimulate employment offered by the National Agency for Employment has been increased from 1st of March 2022.

In 2021, the Law no. 225 was adopted, amending and supplementing the Law no. 76/2002 on the unemployment insurance system and employment stimulation, which regulated the fact that the Social Reference Indicator (SRI) increases, in March of each year, with the average annual inflation rate, a definitive indicator communicated by the National Institute of Statistics (NIS).

In this way, the unemployment benefit and the other rights established by the Law no. 76/2002, with subsequent amendments and completions, which refer to the Social Reference Indicator (SRI) have increased since 1st March 2022, as a result of the increase of this indicator, by 5.1%.

This increase was applied for persons whose rights have been established before that date also.

Regarding the reduction of the percentage of unemployed people receiving unemployment benefits between 2016 and 2019, we would like to mention that in the reference period 2016-2019 there were no legislative changes of the criteria for granting unemployment benefits, so we appreciate that the decrease in the number of unemployed people is due to a period of economic stability and the continuous decline in unemployment rate (unemployment rate at national level was 5.9% in 2016, 4.9% in 2017, 4.2 in 2018 and 3.9% in 2019).

The value of the pension point increased by 14% in September 2020 and was maintained at the same level in 2021.

Starting from January 2022, the Government enacted a 10% increase of the pension point a 25% increase of the minimum pension. It has also been decided that starting 2023, the value of the pension point will be indexed to inflation and half of the average wage growth. Furthermore, a financial aid of up to max. RON 1,200 was granted in January 2022 to public pension system recipients whose entitlements are equal or below RON 1,600.

The authorities plan a broad revision of the public pension system, under the national Recovery and Resilience Plan, with the objective to improve adequacy, equity and long-term sustainability of the system”.

240. The Governmental Committee noted the information provided and decided to await the next assessment by the ECSR.

Article 13 - the right to social and medical assistance

241. The Secretariat made a short introduction to article 13§1 (the right to social and medical assistance). The most problematic issues in 2021 were the inadequate level of social assistance paid to a single person without resources (below the poverty threshold). The cases chosen by the ECSR for the examination by the GC are those in which the right to social and/or medical assistance is not guaranteed to any person in need and those where the level of social assistance is manifestly inadequate and was below the threshold. There were 25 countries that were assessed, the cases chosen are those that were inadequate, below to poverty threshold.

RESC 13§1 BOSNIA AND HERZEGOVINA

242. The ECSR concluded that the situation in Bosnia and Herzegovina was not in conformity with Article 13§1 of the Charter on the grounds that:

- social assistance was not provided in all Entities to any single person on the sole ground that he/she is without resources and is unable to obtain adequate resources by any other means;
- it has not been established that appropriate medical assistance was provided to all persons in need in all Entities;
- it has not been established that the level of social assistance paid to a single person without resources was adequate.

(Under “Entities” it is understood both Entities (Federation of Bosnia and Herzegovina and Republika Srpska) the Brčko District.

243. Regarding the first ground of non-conformity, the ECSR noted from the report that social assistance was not provided in both Entities and the Brčko District to any single person on the sole ground that they are without resources and unable to obtain adequate resources by other means,

but it was related to the capability to work and other conditions. There was no harmonisation in legislation. In the Entity Federation of Bosnia and Herzegovina, the beneficiaries were only the insured persons defined by law, which also set the conditions under which the assistance was granted. The ECSR observed that the access to social assistance and the amounts granted depended on cantons. The main conditions were the inability to work, insufficient income and no family members obliged to support the beneficiary.

244. In the Entity Republika Srpska, the conditions for granting the social assistance were inability to work, insufficient income and no supplemental income from the property. In the Brčko District, the conditions set include all of the mentioned above, plus at least two years of residence in the District. The ECSR reminded that under the article 13.1 the right was universal and the benefits were payable to any person in need without resources.

245. Regarding the second ground of non-conformity, it was noted that the access and the level of the health care were defined by different laws in the Entity Federation of Bosnia and Herzegovina, in its Cantons, in the Entity Republika Srpska and the Brčko District. In its previous conclusion the ECSR considered that there was no evidence that medical assistance was provided to all persons without resources in both Entities and the Brčko District on the same level as to their own residents and that they could obtain free of charge medical care other than the emergency care. In the 2021 report there was no relevant response from Republika Srpska whether citizens from another Entity or District seeking health care services were entitled to it at the same level. Therefore, the ECSR reiterates its conclusion of non-conformity. Regarding the third ground of non-conformity, no information was provided on the amounts of social assistance benefits paid to a single person without resources. Furthermore, there was no official poverty threshold established. Therefore, the situation was not in conformity with the Charter.

246. The non-conformity resulting from the lack of appropriate medical assistance provided to all persons in need in both Entities and the District, as well as from inadequate level of social assistance paid to a single person without resources date back to 2017, while in 2013 the ECSR deferred its conclusion pending the information requested on these points. The GC has not yet discussed the situation.

247. Mr Faber gave floor to the Representative of Bosnia and Herzegovina who explained what was already submitted in writing:

*„When it comes to the first point of non-conformity, **there have been no changes** to the applicable laws regulating this area. However, the local self-governemnt units share the jurisdiction with the entities, and once a year, the financial assistance is adjusted in the cantons if it is not fixed, with the determined amount of the average salary from the previous year. The amounts of benefits are formulated by the Instruction on the method of determining monetary benefits for beneficiaries of rights from social protection and protection of families with children.*

The rights that users of the system have are, as follows: 1. financial assistance (for persons who have problems to obtain basic life needs and who are in a state of absolute poverty); 2. allowance for assistance and care od another person (for persons with disabilities, as well as other persons whose functional state of the organism requires full or partial assistance); 3. personal disability benefit (for persons who are dependent on the help and care of another person when obtaining basic life needs and for whom the level of physical damage has been derermined from 70% to 100%); 4. support in equalizing the opportunities of children and youth with disabilities; 5. placement in an institution; 6. care in a foster family; 7. help and care at home; 8. daily care and 9. one-time financial assistance and counseling.

In addition to these rights, each local self-government unit can define extended rights by decision that correspond to the specific need of users living in the territory of that local community, and which are in accordance with the financial capabilities of local budgets.

When it comes to the second point of non-conformity with the Charter, in the last report of Bosnia and Herzegovina we informed the Committee in details about all types of insured persons according to the existing laws on health care and health insurance in both entities and the District of Brčko.

The existing legislation includes a wide and comprehensive range of insured persons, starting from persons of the age of 18 who have not completed primary education, volunteers to unemployed persons registered within the employment offices, employed persons who perform wide range of activities, to the persons working abroad and persons appointed in diplomatic and consular missions.

Even if a person is not health insured on any legal basis, he/she has the right to health services in accordance with the Basic Package of Health Rights. The health care system provides health care to all population groups, which includes the socially disadvantaged, Roma and other minorities.

Health care is provided under equal conditions to groups of special social and medical importance, starting from children up to the age of 15; pregnant women and mothers; persons older than 65 years of age; persons with disabilities and in a state of mental illness, to the unemployed and beneficiaries of rights in the field of the rights on soldiers, military invalids and civilian victims of war.

*When it comes to the third point of non-conformity with the Charter, in the previous report we gave an answer to this question for each of ten cantons in the Federation. The regulations of each canton individually determine the amount of compensation for permanent financial assistance. Generally, the amount is determined depending on the number of family members, as a percentage of the base, and the base for determining the amount of financial aid is the average net salary earned in the previous year. **According to the current laws, persons who have right to permanent financial assistance are the ones whose income of the joint household is not sufficient for support, if the total monthly income per household member does not exceed 10% of the average net salary earned in the previous year.***

The amount of permanent financial assistance is increased for two-member and multi-member households that have the right to permanent financial assistance by 10% for a household that has a person with disability and a person with permanent disability in physical or mental development“.

248. The Chair explained that the recommendation for Bosnia and Herzegovina would include some of the following: to strengthen the efforts to ensure that in the whole territory of Bosnia and Herzegovina, social assistance is provided to any single person on the sole ground that he/she is without resources and is unable to obtain adequate resources by any other means need; to adopt any measures deemed necessary to guarantee that all persons in need in the whole territory can have access to appropriate medical assistance; to strengthen the efforts to ensure that the level of social assistance paid to a single person without resources does not fall below the poverty threshold.

249. The representative understood the role of the proposed recommendation and stated that her country is prepared to accept it in order to have changes sooner and improve the situation in Bosnia and Herzegovina. The representative of Ireland and France thanked Bosnia on the acceptance for the same reasons. The recommendation was adopted unanimously.

RESC 13§1 ARMENIA

250. Only 1st and 3rd ground of non-conformity found by the ECSR were to be discussed.

251. The ESCR concluded that the situation in Armenia was not in conformity with Article 13§1 of the Charter on the grounds that:

- the level of social assistance paid to a single person without resources was not adequate;
- (...)
- the right to access to medical care was not sufficiently guaranteed.

252. Regarding the first ground of non-conformity, the ECSR noted that single persons without other resources were entitled to social benefits and to other necessary benefits such as free daily food service in charitable canteens, lower rates for electricity and natural gas and that disabled persons or other socially vulnerable persons are entitled to additional care (e.g. home care service) and free medical care. Nevertheless, the ECSR considered that the amount of basic benefit (AMD 18000) was not adequate, because it fell much below the poverty threshold (AMD 30538).

253. Regarding the insufficient access to medical care, which was the third ground of non-conformity, the ECSR noted that according to the report, for the beneficiaries with a poverty score of 30 or higher who receive free medical care, these free services were extended since the previous reporting cycle. However, the ECSR noted that many families in need of medical care could not access it, which meant that the access to free medical care was not sufficiently guaranteed, and that the situation remained not in conformity with the Charter.

254. It's a long-standing non-conformity, dating back to 2009, when the ECSR concluded that the situation in Armenia was not in conformity with Article 13§1 of the Revised Charter because the level of social assistance paid to a single person without resources was manifestly inadequate. The problem persisted and in Conclusions 2013, 2015 and 2017 the ECSR remained particularly concerned about the adequacy of the level of the social assistance paid to a single person without resources, and within this field - the assistance provided to older people in need.

255. The GC examined the situation in 2018 and invited Armenia to provide all the information concerning the levels of social assistance, as well as the minimum pension and decided to await the next assessment of the ECSR. Despite this call, in the previous reporting cycle no information was provided by Armenia for the two grounds of non-conformity found by ECSR in 2013 which were that the level of social assistance paid to a single person without resources is manifestly inadequate and that it could not be established that old people without resources receive adequate social assistance. As indicated above, in the present cycle the information was provided, however, the assessment pointed to persisting non-conformity. The situation was not discussed during the GC meeting in 2014.

256. The Armenian representative provided the following information:

Progress Report

1. Adequacy of benefits

- *By the Government's medium-term expenditure program of 2023-2025 the Ministry of Labour and Social Affairs has proposed to raise the Family welfare enhancement benefit to AMD 28,000 from AMD 18,000.*
- *There are special tariffs for electricity and natural gas for the socially vulnerable families. As of 2021, the number of households benefiting from the gas tariff was 65-66 thousand per month, and for the electricity about 96-97 thousand per month.*
- *By the end of May, 2023, the Ministry of Labor and Social Affairs plans to introduce a new vulnerability assessment system and launch its implementation as a pilot program. The new system will be based on the "hybrid means test" method and will provide a complex verification of formal incomes and funds, as well as a mechanism for introducing hard-to-verify incomes. According to preliminary estimates, the new system will reduce inclusion and exclusion errors and increase addressability. In particular, the addressability of the new system to the poorest 20 percent of the population will be 75 percent, compared to 50.3 percent of the current system. The new system envisages the guaranteed minimum income policy, where the guaranteed minimum income or benefit entitlement threshold is set at the value of the food basket of the 2nd quarter of the previous year, which will allow overcoming extreme poverty.*
- *The Ministry of Labor and Social Affairs offers social housing for the socially disadvantaged and special groups in need of a living space (the list of the beneficiaries is defined by the Government decree № 1069-N dated September 10, 2015). The list includes children left without parental care, families with members under 18 registered in the family vulnerability assessment system, single unemployed pensioners, single parent families, refugees and asylum-seekers.*
- *Simultaneously, the Government is developing Social Housing Strategy that will increase the coverage of beneficiaries and the number of services.*

- *On January 1, 2019, the old-age, disability and survivor benefits were increased to the extreme poverty line AMD 25,000, on January 1, 2020 AMD 26,500 drams, since January 1, 2022 AMD 28,600 and for a disabled child AMD 37,000. The Government plans to increase the allowance to the size of the minimum pension and in 2026 to equate to the food basket value.*
- *From September 2021, “minimum pension” was introduced and set at AMD 31600 (on the line of extreme (food) poverty), which is about 24 percent increase in comparison with January 1, 2019, and 10 percent rise since January 1, 2022. While the average monthly pension currently is AMD 43,983.*

2. Legal aid

To ensure the protection of social rights, Unified Social Services, operating under the Ministry of Labour and Social Affairs, provide legal aid to the citizens who apply to them.

3. Irregular migrants and foreigners

The Migration Service provides social support to asylum seekers and recognized refugees. Those who are in Armenia on an illegal basis are subject to return to their country or a third country if it is unsafe to return to their home country.

4. Medical assistance during COVID-19 pandemic

Inpatient care for patients with coronavirus disease is provided on state-guaranteed conditions free of charge in reprofiled medical care and service organizations, and outpatient medical care is provided in primary healthcare institutions.

257. The GC took note of the information provided and decided to await the next assessment of the ECSR after new information that will appear in the next report.

RESC 13§1 CZECH REPUBLIC

258. The ECSR concluded that the situation in Czech Republic was not in conformity with Article 13§1 of the 1961 Charter on the grounds that:

- the right to social assistance to all persons in need was not guaranteed as it could be withdrawn as penalty for having refused a job offer or not registering with an employment office;
- the level of social assistance was manifestly inadequate.

259. As regards the first ground of non-conformity, the ECSR noted that persons refusing a job offer or not registering with an employment office would not receive benefits for 3 months, the same as persons failing to ensure mandatory school attendance of their children. The ECSR considered that if no means of subsistence remain available to those whose social assistance benefits are withdrawn as a penalty, it was not in conformity with the 1961 Charter.

260. Regarding the level of social assistance, the ECSR considered that it was manifestly inadequate - the minimum assistance (living minimum of €134 and subsistence minimum of €86) was much below the poverty threshold (€417).

261. The first ground of non-conformity appears for the first time. However, the second ground of non-conformity concerning the adequacy of the social assistance benefit is a long-standing non-conformity. In 2002 (Conclusions XVI-1) the ECSR considered it was impossible to determine to what extent the situation was in conformity with Article 13§1 of the Charter without some indication as to how the level of assistance benefit awarded compares with the average wage and the minimum wage or a minimum family budget and requested the information to be submitted in the next report. In 2004 (Conclusions XVII-1) the ECSR found the level of benefit adequate, while in 2006 (Conclusions XVIII-1), due to changed circumstances it again reserved its position and asked for

more information. In 2009 (Conclusions XIX-2) and 2013 (Conclusions XX-2) the ECSR could not establish the above-mentioned benefit was adequate and in 2021 it was found inadequate.

262. In 2014, regarding the second ground of non-conformity, the GC decided to await information to be provided in the next report.

263. The representative of the Czech Republic provided the following information:

I. Terminological inaccuracy

In paragraph 16, the Committee wrongly notes that persons from the State Parties of European Social Charter are not entitled to social assistance in the Czech Republic.

16. (...)

The Committee notes that there is therefore an explicit entitlement to social assistance for EU nationals and their family members, but not for the nationals of a State member of the Social Charter. No information on statistics and how this access is provided, except the special régime applicable to minors.

(...)

Paragraph 20 contains a rather significant terminological inaccuracy - persons staying in the territory of the Czech Republic illegally are not provided with extraordinary medical assistance, but with a benefit of assistance in material need provided that a person is at risk of serious damage to health.

This terminological inaccuracy influences the comprehension of segments of the Czech social support system -> extraordinary immediate emergency medical assistance (a one-off benefit of the system of assistance in material need). A benefit of extraordinary immediate assistance due to the threat of serious injury to health has nothing to do with medical care.

20. *The report refers to persons present in the Czech Republic in an irregular situation and to the fact that they can be provided with extraordinary immediate emergency assistance (a one-off benefit of the system of assistance in material need). The benefit can be provided up to an amount that supplements the person's income to the subsistence minimum; in the case of a child, up to the living minimum. The subsistence minimum since July CZK 2,980, the living minimum from CZK 2,390 to 3,320 depending on age of child.*

II. Explanation

Social services

Within its system of social services, the Czech Republic provides foreigners - persons located on its territory - with the necessary assistance in situations that they are not able to deal with on their own (so-called unfavorable social situations).

Therefore, if foreigners with legal residence in the Czech Republic (status granted by the Ministry of the Interior) apply for social services and at the same time meet the conditions for its provision (they are in an unfavorable social situation to which the social service responds), they are provided with social service in accordance with Section 4 (2a) of Act No. 108/2006 Coll., on social services, as amended.

These persons fall within the circle of persons specified in the provisions of Section 4 (1i) of the above-mentioned Act, i.e are foreigners without permanent residence in the territory of the Czech Republic, to whom this right is guaranteed by an international treaty which is part of the legal order of the Czech Republic. The said persons thus clearly fall within the circle of beneficiaries defined by aforesaid Act.

The referenced international treaty in this case is the European Social Charter (Article 13 thereof).

In addition, the law on social services includes in its Section 4 (3) a special regulation, according to which the social services, asylum shelters, contact centers, crisis assistance, intervention centers,

low-threshold day centers, low-threshold facilities for children and youth, dormitories and outreach programs defined therein are also provided to a person who is not referred to in Section 4(2) of the Social Services Act, if pursuant to Act No. 326/1999 Coll., on the residence of foreigners in the territory of the Czech Republic and on the amendment of certain acts, as amended (hereinafter referred to as the "Aliens Act"), legally resides in the territory of the Czech Republic.

Social services, shelters, crisis assistance and outreach programs are also provided to a person who is a victim of the crime of trafficking in human beings or the crime of abduction.

Professional social counseling is provided to a person who is a victim of a crime, if pursuant to Act No. 326/1999 Coll., on the residence of foreigners in the territory of the Czech Republic and on the amendment of certain acts, as amended legally resides in the Czech Republic, and to a person who is a victim of the crime of trafficking in human beings or the crime of introduction.

The above-mentioned legal regulation of the definition of the range of beneficiaries for the area of social services has been effective without changes from 1 January 2007, i.e. from the entry into force of the of Act No. 108/2006 Coll., on social services.

Benefits of assistance in material need

The Act No. 111/2006 Coll., on Assistance in Material Need, stipulates when a person/family has the right to social assistance, respectively is considered a person/family in material need and is entitled to (recurring) benefits for assistance in material need. It is the lack of means to provide for the basic necessities of life, the inability to increase one's income due to age, health or other serious reasons through one's own efforts, which seriously threatens the ability to secure basic living conditions.

The ability to increase one's income through one's own work is examined only for persons "fit for work" in order to qualify for benefits for assistance in material need. The condition to be in an employment or similar relationship, to engage in self-employment, to be registered as a job seeker, not to refuse employment, to participate in employment programmes, etc. does not apply to persons over 68 years of age, beneficiaries of an old-age pension, persons with disabilities in the third degree, recipients of maternity benefits, parental allowance, care allowance, persons caring for children and persons with disabilities, persons temporarily unable to work, etc.

In addition to setting strict conditions for entitlement to benefits, the above mentioned Act also contains a "softening" provision pursuant to which the state authority administrating Assistance in Material Need (Labour Office of the Czech Republic) has the possibility to assess the situation of a particular person and, in justified cases, to consider this person as a person in material need and to grant him or her entitlement to benefits even though he or she does not meet the specified conditions.

Decisions on benefits of assistance in material need take place under the regime of administrative proceedings; remedies are available. In addition to the so-called ordinary remedies (appeals), there are "extraordinary remedies" (review, retrial), judicial review is also possible. The same applies to the area of employment - i.e. also to the sanctioning exclusion from the register of job seekers. Persons shall be informed of the remedies available in any decision relating to benefits. Each decision must contain a part called "Instruction" in which the possibility of lodging an appeal is mentioned, the time limit within which it is necessary to do so and the authority to which the appeal is lodged.

The purpose of the legislation and practice of benefit assistance for healthy non-caring persons of working age is to be economically active and independent, or to a lesser extent dependent, on state assistance. The objective of social protection in the broadest sense cannot be merely the receipt of benefits, but activation, comprehensive assistance to a person. Logically, this includes assistance with obtaining employment and assistance with gaining economic independence or increasing it, or social work. The lack of interest in addressing its unfavourable income and social situation therefore "fairly" reduces the amount of direct benefit assistance.

It should be borne in mind that social assistance include not only recurring benefits for assistance in material need, but there are also one-off benefits of emergency immediate assistance that address

specific situations, such as being affected by a serious emergency, lack of funds to cover the necessary one-off expenses, lack of resources to purchase or repair items of long-term need, lack of funds to cover justified costs incurred in connection with education or leisure activities of dependent children and to ensure the necessary activities related to the social and legal protection of children, the risk of social exclusion.

It is also important that those who do not fulfil the condition of work activity and who have been affected by the sanction mechanism retain access to other forms of assistance financed from public budgets, such as social services, shelters, dormitories, food banks, etc. Extraordinary immediate assistance can be granted.

Identifying the amount of social support with the amount of both the subsistence minimum and the living minimum, and on that designation of the amount of social support as manifestly insufficient is wrong. Although assistance in material need benefits use the categories of living minimum and subsistence minimum as criteria in assessing entitlement and determining their amount, the amount of the recurring benefit of assistance in material need called "allowance for living" is not equal to the amounts of living or subsistence minimum. The Act on Assistance in Material Need uses the concept of living which is compositional, deals with the amounts of the living and subsistence minimum. In calculating the living, it increases these amounts of living minimum and subsistence minimum by its legally given percentages according to the individual situation and activity of the recipient of benefits. In addition, for people with expensive dietary meals, the living also takes into account this fact (it increases by CZK 1,000 to 2,800 depending on the type of diet, it increases (October 2022) by CZK 1,095 to 3,066 depending on the type of diet.

Living minimum and subsistence minimum set income limits to ensure nutrition and other basic necessities of life. It does not include housing costs as the provision of assistance to ensure the reimbursement of necessary housing costs is reflected in two separate benefits ("housing allowance" from the state social support system and special benefit of assistance in material need called "housing supplement").

When assessing the sufficiency of the amount of aid, the amount of both housing benefits must be taken into account, in addition to the amount of living or allowance for living.

The same approach should be followed when assessing aid levels based on a comparison with the poverty line (60 % of the median equivalised income). It is not possible to compare only the amounts of the living minimum and subsistence minimum, it is necessary to "add" the benefit aid for housing. Analytical materials on the topic of minimum income, the processing of which is commissioned by the European Commission, use this approach and the Czech Republic performs better in their outputs.

It should also be noted that the amounts of the living and subsistence minimum are subject to valorisation. In 2022, they were increased as of 1st of April and 1st of July.

As of July 2022, an additional situation for the provision of the emergency immediate assistance was introduced. It is called "other event" (= an event which, due to its magnitude, could not have been foreseen or prevented) and as result a person is due to lack of financial resources threatened in particular by the loss of housing or the failure to provide basic necessities).

These are unprecedented and unexpected cases that can occur in life and put vulnerable people in a hopeless situation. For example, it may be a pandemic situation, an energy crisis or another event that can plunge a family or individual into an unfavorable social situation associated with loss of housing.

A person (family) can be e. g. supported in cases where they are not yet entitled to supplement for housing and do not have sufficient funds to cover the justified housing costs that have increased, or as a result of excessively increased energy deposits, it does not have enough money to pay for them.

Despite the one-off nature, this assistance (to fulfill its purpose) can be provided repeatedly. The amount is determined taking into account financial means and income situation, so that the sum of the benefits granted for this reason does not exceed 20 times the living minimum level of a person within the 12 consecutive calendar months (max. CZK 92,400).

In relation to the extraordinary immediate assistance, it can be reiterated that in connection with housing, the extraordinary immediate assistance can also be provided in situations where a person (family) does not have financial means to bill for energy, to provide principal sum (deposit) when acquiring new housing, to acquire or repair essential basic items of long-term use (e.g. refrigerator, washing machine, furniture), for overnight stays (e. g. payment of dormitories for homeless people in winter).

Even in these cases, each situation is assessed on the basis of the income, social and financial situation of a person (family) and it is irrelevant whether the recipient of recurring assistance benefits is in material need (allowance for living and supplement for housing).

Healthcare and health services

In the Czech Republic, by law (Act No. 372/2011 Coll., on Health Services and Conditions for their Provision), every patient must be provided with urgent care, i.e. care for life-threatening conditions.

This care is provided to everyone, regardless of whether a person in need is insured or self-payer, whether a person in need resides in the Czech Republic illegally or not.

The price of such care is indeed regulated for self-payers, thus unlike the planned care, the provider cannot charge the patient without limitation.

With these measures, the Czech Republic meets all its international obligations.

264. The Secretariat clarified that it is understood that the system doesn't want the abuse of the benefit (first ground). Regarding the second ground, there is an increase every year, but it still did not reach the poverty threshold. The Czech representative answered that the situation is not grave because the people under the poverty threshold can ask for other types of assistance.

265. The ETUC representative stated that a possible recommendation should be formulated in the way that it stresses the need to increase the efforts.

266. The French representative said it would be useful to provide information on strategies and additional information on vulnerable categories and efficiency of the social assistance, that the huge gap between the levels of protection and poverty is regretful, and she asked for the definition of the assistance that provides for better protection in general and the country's policies.

267. The Czech representative replied that there are unemployment offices and people who need a job can apply and even improve their skills, the families are supported, the next report can provide more details on the strategies. Moreover, they understand the recommendation and that there needs to be an improvement of the standards and not opposing the recommendation and will take it positively to take new energy and make life nicer and more social.

268. The Chair was very pleased with the positive attitude and asked the Committee if the recommendation of encouragement should be sent to the Czech Republic about the minimum amounts and conditions to obtain the additional amounts. He believes that obtaining a single minimum amount would be more efficient than having additional amounts. The wording would be discussed by the Czech Republic and the Secretariat and in the future, it would be more practical for the Committee to receive the Recommendation before the meeting.

269. The recommendation was adopted by a majority with 3 abstentions.

270. The French representative asked to be in the text that it is a very positive recommendation.

RESC 13§1 MONTENEGRO

271. The ECSR concluded that the situation in Montenegro was not in conformity with Article 13§1 of the Charter on the grounds that:

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

272. As regards the right to social assistance, the ECSR noted that the social assistance was granted to persons who belong to special categories (on the basis of their personal status and not the level of minimum resources). An unemployment benefit was granted if they were of working age and did not refuse a job offer, vocational training, re-training or additional training. It was considered not in conformity with the Charter.

273. Regarding the adequacy of the level of social assistance, the ECSR concluded on a non-conformity because the assistance that could be obtained (€ 68,57) was well below the poverty threshold (according to Eurostat € 157 in 2019).

274. The non-conformity on the ground that the right to social assistance was not guaranteed to any single person without resources was discerned already in 2017. The level of social assistance was found manifestly inadequate in 2013 and 2017.

275. In 2018 the GC took note of the information provided by the Montenegrin representative concerning the level of social assistance and decided to await the next assessment of the ECSR.

276. The representative of Montenegro provided the following information:

Regarding Committee's conclusion that the situation in Montenegro is not in conformity with RESC Article 13 - Right to social and medical assistance Paragraph 1 - Adequate assistance for every person in need, on the grounds that:

- *the right to social assistance is not guaranteed to any single person without resources;*
- *the level of social assistance is manifestly inadequate,*

Government of Montenegro provides the following information:

*Regarding first ground of unconformity, in addition to the previous answer in the Report on the Implementation of the Amended European Social Charter, we note that the right to social assistance in accordance with the Law on Social and Child Protection is guaranteed to an individual provided he is incapable of work if he is older than 67 years or the incapacity is caused by a medical condition. If a person is younger than 67 years of age, he/she receives financial compensation in accordance with the regulations in the field of employment. A person with health problems that cause incapacity for work if he does not have the means to live under the conditions prescribed by the Law on Social and Child Protection can exercise the right to financial support, which due to the alignment starting from 1 July 2022 is **76.56 €** (918.72 € per year), entitlement to care and support allowance in the amount of **75.97 €** per month (911.64 € per year) or the right to a personal disability allowance in the amount of **207.16 €** per month (2,485.92 € per year). If the beneficiary of personal disability allowance has a parent or guardian, that person receives a monthly allowance of **224.36 €** (2,692.32 € per year). In addition to the above, an individual can be entitled to a one-time financial assistance that averages about 200 €, the right to a subsidy of monthly electricity bills about 20 € (about 240 € per year), if it is estimated that accommodation in a social welfare institution is necessary, which costs are borne by the state (300-450 € per month depending on the health condition, which amounts to 3600-5400 € per year), accommodation in a shelter, home help service provided by housewives and counseling work. It also exercises certain rights and subsidies for communal services at the local level (about which no records are kept at the state level). It also exercises certain rights and subsidies for communal services at the local level (about which no records are kept at the state level).*

The right to one-time financial assistance and the right to counseling work can be exercised by individuals who are able to work and without funds, as well as those who are not in a state of social need if circumstances affect that they need such assistance (treatment costs, remediation of natural disasters etc.).

Persons who are able to work (Article 21 paragraph 1 item 2 of the Law on Social and Child Protection) and refuse the offered employment in the place of residence, or professional training, retraining or additional training in accordance with the law, unless at least two years have passed since the rejection they can exercise the right to financial support or if they are users of the right, their right ceases (Article 22, paragraph 1, item 8 of the Law on Social and Child Protection).

We point out this is a very small number of these persons and, above all, these are persons who work in informal economy and have no financial interest in establishing a lawfully employment relationship.

We also point out that Article 28 of the Law on Social and Child Protection prescribes the obligation of cooperation between the centers for social work and the Employment Bureau on the implementation of measures of social inclusion of able-bodied users of financial support, ie. In accordance with their regulations, the Employment Service is actively working on the work activation of these beneficiaries.

Regarding second ground of unconformity, we note that the amounts of compensation for financial support, depending on the number of family members, range from **76.56 €** for a single-member family to **145.56 €** for a family with five or more members. The average family of four with two children receives a monthly allowance for financial support in the amount of **130.27 €** per month (**1,563.24 €** per year), child allowance for two children **97.10 €**, ie. **48.55 €** per child (**1,165.00 €** per year), monthly electricity subsidy around 25.00 € (around 300.00 € per year), if children attend preschool around 30.00 € per month per child (for 10 months about 660.00 €), if children use rest and recreation in winter and summer from the budget is paid about 210 € per child (a total of 420 € for two children) one-time financial assistance on average about 250-300 €. Assuming that they are the beneficiaries of all the above rights from the budget, about 4,188.00 € is allocated annually for the four-member family of financial support beneficiaries. Under the authority of the Ministry of Education, it provides children with free textbooks. Also, the family exercises certain rights and subsidies for communal services at the local level (about which no records are kept at the state level).

In addition to the above, we emphasize that the relevant international institutions of UNICEF, as well as the UNDP have analyzed the Social and Child Protection System in Montenegro with proposals for its improvement, and in the coming period it is expected to ammend regulations in this field.

It should be noted that despite the limited funds from the state budget for 2022, 139,705,000.00 € will be allocated to the area of social and child protection from regular budget funds, which is **59,787,034.07 €** more than the actual fund in 2021, which amounted to 79,917,965.93 €. The increase in budget resources is primarily conditioned by the introduction of an child allowance for children up to 6 years of age from October 1, 2021, and the introduction of child allowance for children up to 18 years of age from October 1, 2022.

As the previous 2021 was marked by a pandemic, in the fight against COVID-19, and in order to alleviate the difficult financial situation, the Government of Montenegro implemented a package of measures where the budget reserve provided a total of: 826,300.00 € one-time assistance to beneficiaries: financial support and beneficiaries of personal disability benefits. By the Conclusion of the Government of Montenegro number: 07-398 / 2 from 28.01.2021 in February, the beneficiaries of personal disability benefits were paid 50.00 € one-time financial assistance, while the families of financial support were paid: one-member family 50.00 €, families with more members 100.00 € each. The number of beneficiaries of personal disability benefits who received one-time assistance is 2,767, which amounted to 138,350.00 €, while the number of financial support families covered by this package of measures is 8,354, which amounted to 687,950.00 €. During that period, social and child protection institutions provided users with access to rights and services in accordance with the measures adopted by the competent authorities. In the institutions for accommodation of users, a special regime has been introduced in order to protect the health of users with regard to the application of all epidemiological measures (vaccination, protective masks, etc.)

Also, in addition to the above, the Commission for the distribution of part of the budget reserve funds approved financial assistance to citizens, in accordance with the expert findings and opinion of the social worker. In September 2021, a Social Voucher voucher for shopping in markets worth 30, 50 and 100 € was introduced. 2924 vouchers were issued in the total value of 180,540.00 €. This is a new form of assistance to citizens who are in a state of social need with which citizens were acquainted through a media campaign, which was conducted on this topic.

In order to improve child protection in 2021, it is prescribed that the right to child allowance, in addition to the already prescribed categories, have all children aged 0-6, regardless of the financial

situation of parents and the number of children who used this right is 36,715 children from 2,153,300.00 €. The amount of the allowance for children in 2021 ranged from 30 € to 60.90 €, depending on the category of children, and a total of 7,063,433.92 € was allocated for all categories of children in 2021. Furthermore, in December 2021, the Law on Amendments to the Law on Social and Child Protection was passed, which prescribes the right to child allowance for all children up to the age of 18, with effect from 1 October 2022.

In 2022, ending with September, 6,359,725.72 € was spent on the child allowance according to the prescribed categories, and the number of children who exercised the right was 12,461. For beneficiaries of the child allowance for children up to 6 years of age, 11,423,861.99 € is payable for the same period for 37,647 children. As of October 1, 2022, 76,311 children applied for the right to child allowance for children up to 18 years of age, for whose needs 2,289,330.00 € will be allocated monthly, and 27,471,960.00 € at the annual level.

According to current data, the total number of children who will receive a child allowance in the amount of 30 € (all children from 0 to 6 years old, and from October 1 all children up to 18 years old) is about 114,000, which in financial terms would be 3,420,000.000 € monthly or annually about 41.040.000.00. When children's allowances are added by category, it is planned that for the year 2023, it will be necessary to set aside about 52,000,000.00 for the child allowance.

Articles 38 and 58 of the Law on Social and Child Protection prescribe the harmonization of material benefits from social and child protection semi-annually based on the cost of living and average earnings of employees in Montenegro based on statistics for the previous half in a percentage representing the sum of half a percent growth, that is, a drop in the cost of living and a half percent increase in wages.

Compared to 2021, in 2022 there was a slight increase in the number of beneficiaries of the right to care and assistance allowance from 19,379 to 20,509 (September), personal disability benefits from 2,997 to 3,105 beneficiaries (September), a decrease in the number of beneficiaries of financial support from 7,586 of users to 6,408 (September), which is a continuation of the trend of reduction from the previous period, as well as other rights whose material provision is the basis for exercising rights.

Bearing in mind that in January 2022 the minimum wage was set at 450.00 € per month instead of the previous 222.00 €, from July 1, 2022 there was an increase in the amount of material benefits of 8.7%, in accordance with Articles 38 and 58 of the aforementioned law.

277. The Chair thanked the representative and noted that all the figures are contained in the document sent to Secretariat, but not all of them can be assessed at the meeting. In the last paragraph it is written that the amount of material benefits increased 8.7 percent, but it still seems to be below the poverty threshold. The question is what the poverty threshold is and what is the assistance awarded. The minimum wage is 450 euros, but what is the social assistance is not clear. The representative of Montenegro repeated there was an increase (but he did not give the amount). The Secretariat stated that there was no change as Secretariat sees it, because the assistance for the single person without resources is 76 euros up to 200 euros. Since the minimum wage has raised, it means that also the poverty threshold raised. With the increase of the assistance benefit, there is still a gap. She concluded by asking if this is a correct view. The representative of Montenegro replied there is a social assistance for any single person if needed. The amount is indeed as reported, but there are other allowances like social voucher and a child allowance for all children starting from October 2022, help with the electricity bills etc.

278. The Chair stated that Montenegro is in the same situation as the Czech Republic and therefore there should be a vote on a recommendation.

279. The outcome of the vote was: against: 5, abstentions: 20, in favor: 10. The recommendation was not adopted. As Chair observed, a message to Montenegro still needs to be sent to become compliant with the Charter concerning the Social Assistance.

280. The Secretariat noted that there must be consistency when the conclusions are sent to CM and in GT-Charte it will be noticed that there is imbalance in treatment of the countries when a country is reluctant to accept the measure, meaning the recommendation.

281. The North Macedonian representative had the opinion in the session of the previous day that when there is a common ground there shouldn't be a vote. The Chair believes that if there was a draft Recommendation prepared by the Secretariat, it would be easier for the GC to vote. The French representative stated that there should be a discussion about revising the working methods, but the same question was discussed by PR and the French PR will insist on equal treatment.

RESC 13§1 Romania

282. The ECSR concluded that the situation in Romania was not in conformity with Article 13§1 of the Charter on the grounds that:

- uninsured persons without resources were not entitled to adequate medical assistance;
- the level of social assistance paid to a single person without resources was inadequate;
- foreign nationals unlawfully present who could not apply for international protection were not entitled to social assistance rights.

283. As regards the lack of adequate medical assistance, the ECSR reiterated its conclusion of non-conformity, since the report did not provide any new elements that would change the previous assessment. Persons without resources who did not belong to specific categories did not have right to medical assistance, except in an emergency. In other words, the system does not provide a primary or specialised outpatient medical care for poor or socially vulnerable persons, which means the health care for persons without resources is insufficient according to the Article 13§1 of the Charter.

284. As regards the level of social assistance paid to a single person without resources, the ECSR noted that the basic benefit for a single person without resources was between €127 and €139, while the poverty threshold estimated by Eurostat for 2019 was at €160.

285. Regarding the third ground of non-conformity, the ECSR noted from the report that foreign nationals unlawfully resident who could not apply for international protection were not entitled to social assistance rights to cope with an urgent and serious state of need. It considered therefore that the situation was not in conformity with the Charter on this point.

286. The non-conformity on the first and second ground, concerning the adequacy of medical and social assistance is long-standing. In 2002 the ECSR found the situation not in conformity regarding the social assistance for the first time, because many persons in need were not eligible for the allowance. In 2004 it noted the adoption of a new relevant law that should have mended the situation, asked for developments and deferred its conclusion. In 2006 and 2009, the information provided could not enable to assess if the level of assistance was adequate. The social and medical assistance were both found inadequate in 2013, 2015 and 2017.

287. The third ground of non-conformity regarding the medical assistance provided to the foreign nationals unlawfully present in the territory, was found for the first time.

288. The GC has not yet examined the situation.

289. The representative of Romania presented the following information:

Regarding the first ground of nonconformity, there are no developments in this matter but we want to highlight again that, according to article 224, para. 1, letters k) and m), persons without resources who benefit from social assistance according to the Law on the guaranteed minimum income and persons who benefit from unemployment benefits, along with the other categories listed in the law, benefit from insurance without payment of the contribution and therefore they receive the basic services package.

Concerning the Committee's observation that the right to medical assistance should not be limited to emergency situations and that a system not including primary or specialised outpatient medical

care did not sufficiently ensure health care for poor or socially vulnerable persons who become sick, we want to specify that in the 20th report can be found detailed information regarding the types of medical services in primary health care and specialized outpatient health care for clinical specialties that are included in the minimum service package, in addition to medical services for medical-surgical emergencies.

With regards to the second ground of nonconformity, according to the current provisions in force, a single person without income can be entitled monthly to the following benefits, during the cold season:

- Social aid (guaranteed minimum income - GMI) for a single person: 149 lei (approximately 30 euro)
- about 18.7% of the median income per equivalent adult (160 euros for a single person in 2019);
- Aid for house heating with solid fuels and oil: (AI) 320 lei per month (100% compensation), granted during the cold season.
- Energy supplement for the solid fuels and oil (SE) in a fixed amount, granted for the whole year: 20 lei; Therefore, a single person without resources is entitled to approximately 489 lei/month (98 euro), this amount representing 61% of the median income per equivalent adult¹².

Besides these amounts, the persons can be entitled to social canteen (CS): 12 lei/day * 30 days: 360 lei per month (benefits in kind/food provided to people in difficulty);

Also, recently, was approved the Government Emergency Ordinance no. 63/2022 on some temporary measures for providing material support to categories of persons at risk of material deprivation and/or risk of extreme poverty, partially sustained from non-reimbursable external funds, as well as some measures for its distribution. According to this normative act, the material support for the vulnerable groups aims to compensate a part of the food expenses for the daily living, by granting social vouchers on electronic support, for the purchase of food products and/or for the provision of hot meals. Material support is provided from the state budget and from non-reimbursable external funds under the Operational Program for Inclusion and Social Dignity (POIDS) and the Operational Program Helping Disadvantaged People (POAD), in compliance with the applicable eligibility rules and in the limit of the amounts allocated for this purpose.

The material support granted on the basis of the electronic ticket has a nominal value of 250 lei and is granted once every two months to the vulnerable categories of beneficiaries provided by law. The amounts granted can be used within 12 months of the date of each supply.

Regarding the third ground of nonconformity, in accordance with the provisions of Ordinance 194/2002 on the legal regime of aliens, and of the Regulation of accommodation centers for aliens taken into public custody, during the accommodation in the centers, aliens with illegal stay on the territory of Romania are provided with accommodation, food, maintenance and hygiene materials, as well as medical and psychological assistance.

Also, aliens who do not have sufficient funds to support their existence have the opportunity, according to the law, to call on the support of NGOs.

At the same time, we mention the fact that, in the case of foreigners with illegal stay and tolerated on the territory of Romania, they are guaranteed access to the labor market, under the same conditions provided by law for Romanian citizens.

290. The Chair thanked Romania and noted that regarding the first ground there were no changes, although there is a service package and regarding the second ground aliens have only emergency social assistance guaranteed.

291. The representative of Belgium asked if the assistance provided for the third ground was financial or material. The Romanian representative replied it was the benefits in kind. The representative of Belgium believes that regarding the first two grounds the situation is the same as for the previous countries.

¹² (GMI) 149 lei + (SE) 20 lei + (AI) 320 lei = 489 lei (approximately 98 euro) - approximately 61% of the median income per equivalent adult;

292. The Chair stated that it is important to be consistent, but it is also a transitional period, so he asked what the GC would decide. The French representative said that Romania is a member of EU and has a duty to accept the recommendation to set it as an example, so GC needs to apply its working methods and to have the same approach as for the Czech Republic.

293. The Secretariat clarified that the Conclusions were selected together with the Bureau, there are 3 aspects concerning Romania that the Secretariat summarized once again, as well as amounts submitted by Romania in reply to the non-conformity conclusion and asked Romanian representative if the summarized view was correct. The Romanian representative confirmed it was.

294. The Chair called for a vote on the first ground of non-conformity.

295. In favour: 16 Against: 6 Abstentions: 15 . Recommendation was not adopted.

296. Second ground: In favour: 7 Against: 7 Abstentions: 21. Not adopted.

Third ground: In favour:0 Against: 4 Abstentions: 28. Not adopted.

297. The Chair concluded GC still needs to ask Romania to improve the situation having in mind it is also a part of EU.

Article 13§4

298. The beneficiaries of this right to emergency social and medical assistance are foreign nationals who are lawfully present in a particular country but do not have resident status. By definition, no condition of length of presence can be set on the right to emergency assistance.

299. States Parties are required to provide non-resident foreigners without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need (without interpreting too narrowly the “urgency” and “seriousness” criteria). They are not required to apply the guaranteed income arrangements under their social protection systems. The provision of free emergency medical care must be governed by the individual’s particular state of health. Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.

300. Under Article 13§4, two State Parties were found to be in violation with the Charter on the ground that not all non-resident foreign nationals in need who are lawfully present in the territory are entitled to emergency social assistance (Croatia and Montenegro).

RESC 13§4 MONTENEGRO

301. The ECSR concluded that the situation in Montenegro was not in conformity with Article 13§4 of the Charter on the ground that not all non-resident foreign nationals lawfully present in the territory in need were entitled to emergency social assistance.

302. The ECSR noted from the report that, according to the Law on Health Care, healthcare institutions and healthcare practitioners are obliged to provide emergency medical care to foreign nationals. The provision is imperative, and the center for social work cannot deny health care to a person who needs an urgent medical intervention. As for emergency social assistance, the report stated that the Law on Social and Child Protection stipulate that the rights of social and child protection may be exercised by a foreign national with an approved temporary residence or permanent residence in the country. Therefore, it does not seem to apply to non-resident foreigners lawfully present (e.g. tourists and those in transit). The report further refers to a non-recurring

financial assistance and temporary accommodation, which could be considered as emergency social assistance, available for asylum seekers and foreigners under subsidiary protection.

303. The ECSR concluded that the situation is not in conformity with the Charter, given that not all non-resident foreign nationals lawfully present in the territory in need may have access to such assistance, as it is only available for persons with a residence permit, asylum seekers and foreigners under subsidiary protection.

304. Except in the latest conclusions of 2021, the ECSR found the non-conformity two more times. In 2013 the non-conformity was on the ground that it had not been established that non-resident foreign nationals, whether legally present or in an irregular situation, were all entitled to emergency social and medical assistance. In 2015, the non-conformity was on the ground that it has not been established that all non-resident foreign nationals were entitled to emergency social assistance.

305. In 2014 the written information was submitted by the government, but not discussed by the GC.

306. The representative of Montenegro presented the following information:

Regarding items 4 and 5, which refer to the question of whether the provision of emergency social and medical assistance is left to the discretion of social work centers, we note that the provision of emergency social assistance is within the competence of social work centers, which is determined by Article 74 of the Law on Social and Child Protection. The provision of emergency medical care is not in the competence of the centers for social work, but in the competence of health institutions.

Regarding your conclusion and the given explanation under items 5 and 6, we believe that our answer has not been adequately interpreted, ie. Article 5 of the Law on Social and Child Protection, and refers to emergency social assistance for all foreign non-resistant citizens in a state of social need who are legally in the territory of Montenegro.

Therefore, Article 5 of the Law reads:

"Rights under this law can be exercised by a Montenegrin citizen residing in the territory of the state. The rights from social and child protection determined by this law and the international agreement may be exercised by an alien with an approved temporary residence or permanent residence in the state.

The rights from social and child protection determined by this law and the international agreement may be exercised by an asylum seeker and an alien under subsidiary protection, in accordance with the law.

Exceptionally, a person who is not covered in terms of para. 1, 2 and 3 of this Article, which due to special circumstances and social risk requires an appropriate form of protection, is entitled to one-time financial assistance and the right to temporary accommodation. "

This means that the mentioned category of persons (which can include persons in transit and tourists) is covered by Article 5 paragraph 4 of the Law on Social and Child Protection, which stipulates that an exceptional person who is not covered in terms of paragraphs 1, 2 and 3 of this Article, which due to special circumstances and social risk requires an appropriate form of protection, is entitled to one-time financial assistance and the right to temporary accommodation. This means that the mentioned provision also applies to all foreign non-resistant citizens in a state of social need who are lawfully present in the territory of Montenegro.

Article 5 of the Law reads:

*"Rights under this law can be exercised by a Montenegrin citizen residing in the territory of the state. The rights from social and child protection determined **by this law and the international agreement may be exercised by an alien with an approved temporary residence or permanent residence in the state.** The rights from social and child protection determined by this law and the international agreement may be exercised by an asylum seeker and an alien under subsidiary protection, in accordance with the law.*

Exceptionally, a person who is not covered in terms of para. 1, 2 and 3 of this Article, which due to special circumstances and social risk requires an appropriate form of protection, is entitled to one-time financial assistance and the right to temporary accommodation. "

This means that the mentioned category of persons (which can include persons in transit and tourists) is covered by Article 5 paragraph 4 of the Law on Social and Child Protection, which stipulates that an exceptional person who is not covered in terms of paragraphs 1, 2 and 3 of this Article, which due to special circumstances and social risk requires an appropriate form of protection, is entitled to one-time financial assistance and the right to temporary accommodation. This means that the mentioned provision also applies to all foreign non-resistant citizens in a state of social need who are lawfully present in the territory of Montenegro.

307. The Chair concluded that the situation seems in conformity and there was only an issue with the communication between the government and the ECSR.

308. The ETUC representative asked since when the legal situation described is in force, if it is a long-standing situation because than it is a problem of insufficient communication of information. The representative of Montenegro replied it was since 2017, but they failed to report.

309. The Chair invited Montenegro to provide the information in the next report and avoid situation of negative conclusions when in fact there was no problem.

ARTICLE 14§1

310. The Secretariat recalled that Article 14§1 is one of those provisions in which ECSR case law is not very developed beyond the wording of the article. The ECSR has defined the material scope to include social services in form of counseling, assistance running the home, hygiene, delivery of meals etc, residential and emergency care. The individual right to access shall be guaranteed to everyone likely to be in need. It can be organized according to eligibility criteria or fee charging, but not excessive. Under no circumstances it does apply to monthly minimum income. It is about counseling and advise. As regards the personal scope, it should concern all persons who face the social need, not based on economic need. The individuals who are most likely to be concerned are belonging into some groups: families, delinquents, older people, invalids, etc. Regarding the foreigners, the ECSR bases on the appendix of the charter according to which the lawful residents and nationals of another party of the Charter are treated on the equal footing.

311. The Secretariat explained that overall, in 2021 examination cycle a problematic issue was the access to social services by nationals of other States Parties. The problem of restrictive access to such services to foreigners remained in Azerbaijan, the Czech Republic, Hungary, Latvia, Poland, Serbia and Türkiye (Czech Republic, Serbia and Türkiye had non-conformity conclusion on that ground for the first time). Only the long-lasting non-conformities are selected in this case.

RESC 14§1 AZERBAIJAN

312. The ESCR concluded that the situation in Azerbaijan was not in conformity with Article 14§1 of the Charter on the grounds that access to social services by nationals of other States Parties was subject to an excessive length of residence requirement of five years; and that it had not been established that the quality of social services met the requirements of the Charter as regards the qualifications and numbers of staff, the existence of an effective mechanism for the monitoring of adequacy of services and decision-making at the level closest to users.

313. The ESCR previously found the situation not to be in conformity in respect of the equality of access to social services (Conclusions 2013 and 2017). In 2021 it reiterated that length of residence requirement of five years to obtain access to social services by nationals of other States Parties is excessive. As regards the quality of social services, the Committee noted that since 2013 the reports did not answer to its questions and thus, it could not establish that the situation was in conformity.

314. This non-conformity dates back to 2013 as regards the access to social services by nationals of other States Parties. Before, in 2009, the Committee deferred its conclusion, requesting comprehensive information on that matter. It is a third non-conformity conclusion in a row, since the ECSR observed no changes to the situation. As regards the inadequate quality of social services, this non-conformity appears for the first time, however, it is not the first time the ECSR was concerned about this aspect. It had been requesting some key information on the situation since 2013 and, after it had not been provided for the third time, it concluded that it could not establish that the situation was in conformity.

315. The GC examined the follow-up to conclusions 2013 and 2017 (in 2014 and 2018, respectively). On both occasions, it noted the information provided and decided to await the next assessment of the ECSR.

316. Azerbaijan's representative presented the following information:

➤ The Committee recalls that Article 14.1 guarantees the right to benefit from general social welfare services. It notes that for the purposes of the present report, States were asked to reply to the specific targeted questions posed to States for this provision (questions included in the appendix to the letter of 3 June 2020, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Health, social security and social protection") as well as previous conclusions of non-conformity or deferrals.

Social Services Agency under the Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan provides home-based social services to single elderly people, elderly spouses and persons with disabilities who do not live in the same residential area as their able-bodied relatives or legal representatives.

- *o In 2020, about 6,000 people over the age of 65 received relevant social services during the COVID-19 pandemic. In 2021, 180 people who received in-home social services were over 65 and living in single-person households.*
- *o Inpatient social services were provided to 272 persons in 2020 and 245 persons in 2021 in the social service facility for the elderly operating under the Agency. This service is provided to citizens of the Republic of Azerbaijan, as well as foreigners and stateless persons who have the right to reside in the country.*

The National Priorities for Socio-Economic Development provide for a system of social services that meets the interests of vulnerable groups and creates equal opportunities for participation, and measures to improve the accessibility of social rehabilitation infrastructure for persons with disabilities, including those under the age of 18.

The draft "National Strategy for the Development of Social Services in the Republic of Azerbaijan up to 2028" has been prepared to adapt social services to constantly updated modern requirements and to ensure reliable social protection of the population. It is guided by the UN Sustainable Development Goals, based on the principle of "leave no one behind" and the priority of "high and fair social protection in an inclusive society".

➤ Therefore, it will focus on the Government's replies to the targeted questions, namely how and to what extent the operation of social services was maintained during the COVID-19 crisis and whether specific measures were taken in view of possible similar crises arising in the future. The Committee wishes to point out that it will take note of the information provided in reply to the question relating to COVID-19 for information purposes only, as it relates to

developments outside the reference period (i.e. after 31 December 2019). In other words, the information referred to in the COVID-19 section will not be assessed for the purposes of Charter compliance in the current reporting cycle.

It is important to highlight that the problems caused by COVID-19 have been taken on flexible response measures and social services units switched to handling requests by adapting to changed circumstances:

- In order to provide remote, digital and mobile services, the call centre was transferred to an enhanced mode of operation, moreover citizens were actively served via the electronic website (e-sosial.az) and the Ministry's website.
- The risk of infection of employees and visitors of "DOST" centres was mitigated by switching 80% of the Agency's employees to the distant work mode;
- It was decided to assign targeted social assistance through electronic systems without on-site interaction;
- To address the problem of a significant increase in incoming calls and emails, the 142 call centre provided service in 2 shifts, and the number of call centre employees was significantly increased;
- To address the problem of limited access to social services of the elderly people over 65, as well as people with disabilities, mobile delivery of food supplies and other social services supplies at home-basis was provided with participation of volunteers.

During the restrictions of the special quarantine period imposed in connection with COVID-19, DOST centres provided a total of 38,328 e-services to citizens remotely.

The implementation of joint MLSPP-UNFPA project of "Building a society for all ages: promoting the well-being of elderlies in Azerbaijan through active aging" coincided with the quarantine regime introduced during the COVID-19 pandemic. The following steps were taken within the project to increase the necessary knowledge and skills of people aged 65+ to adapt to modern conditions, share their experience with the younger generation and expand equality for all:

- 1) o A survey was conducted on the subject of participation in the project among 3105 elderly citizens receiving services at DOST centers
 - 2) o Within the framework of the program, the wishes and possibilities of potential participants were studied, as well as their skills and training needs were identified and assessed
 - 3) o Training program was developed, and 24 coordinators were selected
- o Recognizing the need to conduct trainings only online, and taking into account the difficulty of connecting ZOOM at home for people over 65, trainings were held at their places
- 1) o More than 3,000 trainings were conducted on 7 specific topics for more than 1,000 elderly participants
 - 2) o Lectures were uploaded to YouTube and viewed by 19 thousand visitors
 - 3) o e-certificates were awarded to 1054 successful participants aged 17 to 35.

The specialists of Social Services Agency participated in international training on "Increasing the capacity of social service workers to identify and socially rehabilitate children who were victims of violence during the COVID-19 pandemic". The training courses played an important role in improving the skills of social workers in working with vulnerable populations in crisis situations.

Under the "Joint Action Plan on Social Protection and Protection of Children" of the Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan and UNICEF Azerbaijan for 2021-2022 the joint action plan for development of a mechanism for improvement of social protection of low-income families and other vulnerable class in crisis situations (such as economic crisis, pandemic, floods and other) has started its operation.

➤ **The Committee has previously concluded that the situation was not in conformity with the Charter on the ground that access to social services by nationals of other States Parties was subject to an excessive length of residence requirement (five years). The report states that the relevant provisions in this regard have not changed and therefore the Committee reiterates its conclusion of non-conformity.**

According to the Migration Code of the Republic of Azerbaijan, foreigners and stateless persons temporarily residing in the territory of the Republic of Azerbaijan for the last 2 years without interruption may apply for a permanent residence permit. Therefore, the 5-year period mentioned in Conclusion has no basis. At the same time, Article 3 of the Law of the Republic of Azerbaijan on

Social Services, states that the Law “applies to non-citizens” along with foreigners permanently residing in our country who require social services.

In order to provide an implementation mechanism for provision of social services, the DOST Agency was established by the Decree of the President of the Republic of Azerbaijan. The Agency's services were established in a manner consistent with the principles of "universality", "transparency", "responsiveness" and "sustainability". Access to services is also granted to stateless persons.

Issues of protection of labor and social rights of migrants are always in the focus of attention. In the current legislation, establishing that labor migrants have the same social and labor rights as citizens of the Republic of Azerbaijan, imposing no restrictions on their reunion with family members, creating opportunities for education, hiring foreigners married to citizens of Azerbaijan without the need for a work permit, etc. relevant provisions are reflected in the national legislation.

According to the legislation, any form of discrimination against migrants is explicitly prohibited and their social and cultural rights are recognized. Pursuant to article 3 of the Social Services Act, the Act applies to Azerbaijani citizens in need of social services, foreign citizens residing permanently in Azerbaijan and stateless persons.

➤ The Committee recalls that social services must have resources matching their responsibilities and users' changing needs. This implies that:

- *staff shall be qualified and in sufficient numbers;*
- **decision-making shall be as close to users as possible;**
- **there must be mechanisms for supervising the adequacy of services, public as well as private.**

More than 800 employees working in DOST centers and Call Center are specialists with degrees in "Social Work", "Psychology", "Jurisprudence" and other specialties. Employees and volunteers receive professional training and instruction based on an individual development plan.

In order to ensure the availability of services for people with hearing impairments, specialists in "sign language" were employed. At the same time, more than 2,600 volunteers were involved in the process of providing services in accordance with the volunteering “Friends” Program, who were responsible for receiving visitors, registering them, referring them to support services, filling out the necessary forms, conducting examinations and providing additional information in the centers.

The DOST Index methodology was also developed and implemented by the DOST Agency in order to systematically measure, evaluate and take immediate and appropriate action on the quality of services provided at the DOST centers and the level of satisfaction of the users with the services.

The DOST Index is a comprehensive tool that collects data from a variety of sources, uses time-tested analytical methods, and evaluates and compares the effectiveness of provided social services. The DOST Index, which is a rating system, is a model designed to analyse the performance of back offices at the macro level and DOST centres at the micro level.

In 2021, 121 social contracts were signed with 45 public organizations, and public organizations for social rehabilitation of persons with disabilities, children in need of special care and other vulnerable segments of the population.

Based on the social order, particular social centers were established in 62 cities and districts to ensure the social rehabilitation of 6,200 children with disabilities. Day care centers have been established with coverage of 720 children in 24 cities and districts. 160 children in 3 cities and districts were provided with rehabilitation services at "Center for work with neglected and socially vulnerable children". Moreover, within the framework of “Organization of a social rehabilitation center for victims of human trafficking” project 436 people received relevant services.

In order to ensure the availability of DOST services for the population and ensure a high level of satisfaction several projects have been implemented. The "Virtual DOST" and "Smart DOST" projects have been launched to provide electronization and remote access to services. The above projects are planned to be fully operational by the end of 2022. In DOST centers, the average waiting time of citizens for services was reduced to 3 minutes, in 142 Call Center - to 30 seconds, and service time - to 7 and 3 minutes, respectively. The level of satisfaction of citizens with the provided service was increased to 98.2%.

➤ ***In its previous conclusions (Conclusions 2013 and 2017), the Committee asked information on these three elements. It also asked the next report to provide information on the qualification of social services' staff and the ratio of staff to users and the supervision of social services provided by private providers. The Committee notes that the report does not answer to its questions in particular on the qualification of social services' staff and the ratio of staff to users and the supervision of social services provided by private providers. Again, it reiterates its questions and considers that it has not been established that the quality of social services meets the requirements of the Charter as regards the qualifications and numbers of staff, mechanism for supervision of adequacy of services and user-close decision-making process.***

Besides currently, 738 social workers and 27 social agents provide social services to 4806 citizens from the **Social Services Agency**, of which:

- ✓ 3782 women
- ✓ 1024 men
- ✓ 4228 elderly people
- ✓ 578 people under the age of 70
- ✓ and 796 persons with disabilities

In addition, DOST social workers (63 people) have provided services to a total of 834 people over the past year, of which 695 were women, 139 were men, and the number of active recipients of services was 686 people.

A total of 1,239 employees of the Social Services Agency participated in various trainings. These include a number of various areas such as –

- 1) o primary psychosocial care
- 2) o online social work training
- 3) o general information about psychiatry
- 4) o foster family model training
- 5) o anti-trafficking
- 6) o reintegration of children from institutions into families
- 7) o repatriation

During the period of the special quarantine regime, the Ministry and its subordinate institutions expanded the possibilities for citizens to apply for services remotely. Additional electronic and telephone lines were allocated, applications were received and considered by phone and e-mail, appropriate measures were taken to solve the problems of people in quarantine who were not able to leave their houses.

➤ ***In reply to the Committee's targeted questions, the report provides that during the COVID-19 outbreak, social services have been provided by taking into account the necessary measures. Necessary steps have been taken to limit the spread of the pandemic and to protect the vulnerable. In addition, new services, such as food supply, psychological support and online meetings have been developed. The report does not provide information on any specific measures taken in view of possible future such crises.***

Payment of targeted State social assistance to the families whose period of eligibility for the TSA expired on 1 March, 2020 was extended until July 1, 2020 during a special quarantine regime in the territory of the Republic of Azerbaijan.

In addition, during the quarantine regime, the term of disability certificate of persons with disabilities which expired on March 1, 2020, was extended until July 1, 2020, and in areas (cities) where the special quarantine regime was in force for a longer period, it was prolonged until September 1, 2020.

In 2020, 57 non-governmental organizations implemented 132 social services projects for social rehabilitation of persons and children with disabilities, children in need of special care, low-income people and other vulnerable groups.

In total, with the support of social partners, food aid was arranged for 3 times to 100,000 families with children under the age of 18 who have lost breadwinner of the family, single elderly people and people with disabilities, and other citizens from low-income groups. 100 cars and drivers for social workers and volunteers were allocated, so that they could quickly and comfortably reach the addresses they were called to and provide assistance promptly.

Grocery packages were also provided by the "Regional Development" Public Association of Heydar Aliyev Foundation to the vulnerable groups of population in all districts and cities of country. The Association also provided food aid to the families of 30,000 children with disabilities under the age of 18.

During the pandemic, online training was conducted with experts from Finland and Ireland on ensuring access to social services for people from vulnerable groups.

In order to effectively organize the provision of social services to single elderly and citizens with disabilities over the age of 65 during the special quarantine regime declared in the country as part of the fight against the pandemic of coronavirus, the Decree "On strengthening social protection of workers involved in the provision of social services during the special quarantine regime" was adopted.

According to the decree, a temporary allowance was provided in the amount of 1 (one) monthly official (tariff) salary to the wages of employees involved in the provision of social services in the field of combating the coronavirus pandemic during the period of a special quarantine regime

The order covered a total of 2,000 social service workers, including 1,400 people working in the regional offices of the Social Services Agency and 600 people working in social service institutions. DOST has already received several international recognitions and awards, such as the ISSA "Best Practice Award for Europe - 2022" competition Certificates of Merit, Honorary Diploma of the International Association of Pension and Social Funds and the ESN European Social Services Awards 2021 in the "Technology" Tool category

Several projects related to the electronization of DOST services and the provision of remote access are currently underway, which should be seen as preparation for possible future pandemics or other emergencies:

- 1. Electronization and activation of DOST services;*
- 2. Development of electronic document management,*
- 3. Creation of a dedicated platform and software capabilities for remote deployment of DOST services*

- Virtual DOST platform

- SMART DOST service points

- DOST mobile application

- Daily activities such as maximizing the remote availability of services on the official - DOST website and through dedicated sub-sites

317. The Chair thanked Azerbaijan and commented that if the information was submitted to the ECSR in time, the conclusion might not have been negative. Mr Kristensen, the Deputy Head of the Department for Social Rights took the floor, thanked for the information and disagreed stating that all the persons should be eligible without the two-year requirement, so the finding of the ECSR would have been the same.

318. The Chair proposed the GC to wait for next assessment by the ECSR as regards the second ground of non-conformity. The ETUC pointed to the fact that the ECSR is already raising question since 2013 and he should ask for a possible recommendation that would explain that the information needs to be provided to the ECSR in form of the report in time.

319. Mr Kristensen commented that on the first ground he would not apply the working methods since the ECSR made a mistake, that although it would not make a difference as regards the outcome, the matter needs to be sent again to the ECSR to explain the position on the waiting period.

320. The discussion on the Azerbaijan continued later on, upon the information provided by the representative after the consultation the competent Ministries, as asked by the GC. The representative of Azerbaijan answered the questions on the eligibility for the permit, the time required to receive it and why it was 2 years. Upon the information provided, the ETUC and concluded that there is no information by Azerbaijan what access people with less than 2 years of residence have, because if there is no access at all, it is a serious problem.

321. The floor was be opened for voting and results were 11 in favour, 2 against, 22 abstentions, which means the recommendation was not carried.

322. The Chair concluded that GC invites Azerbaijan to do what is necessary to be in conformity with this Charter's requirement. He further concluded that the working methods will need to be changed concerning the abstentions which block the decisions.

RESC 14§1 HUNGARY

323. The ECSR concluded that the situation in the Hungary was not in conformity with Article 14§1 of the Charter on the ground that equal access to social services is not guaranteed to nationals of all States Parties lawfully residing on Hungarian territory.

324. The ECSR noted from the report that pursuant to the Social Administration Act, the social services were extended to Hungarian citizens, immigrants and settlers, stateless persons and persons recognised as refugees. The report explained that persons who were subject to free movement rules, i.e. EU/EEA nationals, were eligible for the social benefits and services if they have a registered place of residence and have been exercising their right of residence for a period exceeding three months. Moreover, persons having a special status such as refugees and stateless persons are entitled to social benefits and services without regard to any length of residence.

325. Having noted the above, the ECSR observed that the situation had not since its previous conclusion on non-conformity, i.e. nationals of other States Parties (non-EU/EEA) who were lawfully resident, but without having a permanent residence permit, were entitled to social services in the meaning of Article 14 only to a limited extent and only in emergency situations where life and physical integrity were at stake. Recalling that lawfully resident nationals of all States Parties must be treated on an equal footing with nationals, the ECSR concluded that the situation remained not in conformity with Article 14§1 of the Charter.

326. This non-conformity dates back to 2013 on the same ground. Before, in 2009, the Committee deferred its conclusion, requesting comprehensive information on that matter. It is a fourth non-conformity conclusion in a row (2013, 2015, 2017, 2021), when repeatedly the same information is provided and the same conclusion reiterated.

327. The GC examined the situation in 2018, it noted the information provided and decided to await the next assessment of the ECSR. In 2014 (in the follow-up to 2013 conclusions), information was provided in writing but no decision was taken. It was the information which has been later examined by the ECSR.

328. The Representative of Hungary provided the following information before the meeting:

Paragraph 1 - Promotion or provision of social services

Related to the review of Hungary's 17th National Report on the implementation of the Revised European Social Charter, the ECSR found that Hungary did not comply with the Article 14(1) of the Charter, as

- *citizens of countries ratified the Charter who legally residing in Hungary do not entitle the same amount of social services and benefits as Hungarian citizens.*

Hungary's position on the status of citizens of State Parties legally residing in Hungary:

Act III of 1993 on Social Administration and Social Services (hereinafter: Act III of 1993) which determines social services providing personal care covers Hungarian citizens living in Hungary; immigrants; persons with permanent residency; stateless persons; persons recognized by the Hungarian authority as refugees or with subsidiary protection status; as well as EU citizens. Pursuant to Section 3 Paragraph (2) of Act III of 1993, citizens of countries ratified the Charter who legally residing in Hungary are only entitled to extraordinary settlement support, meals and accommodation provided by the local municipalities for people in crisis situations.

However, in line with the position of the ECSR, the Hungarian Government aims to examine the possibility of amending the legislation required to comply with Article 14(1) in order to extend the full scope of social services to the citizens of State Parties who fulfills the conditions of legal residence in Hungary.

Social care given to displaced persons from Ukraine:

In addition to the above, we can report on significant measures in the field of housing and social care for Ukrainian people who were forced to leave their homes in connection with the Russian-Ukrainian war.

Pursuant to Government Decree no. 86/2022. (7 March) on the emergency rules regarding persons recognized as entitled to temporary protection, as well as on the different application of the rules of the Act CVI of 2011 on public employment and amendments to other laws related to public employment, the following persons became automatically entitled to temporary protection status:

- *Ukrainian citizens staying in Ukraine until February 24, 2022,*
- *a stateless person or a non-Ukrainian third-country national who is under international protection or equivalent national protection in Ukraine before February 24, 2022, and*
- *family members of the above persons (spouse or partner, their children and other close relatives who lived together with the above persons and who were fully or significantly supported by the person entitled to temporary protection).*

Persons fleeing Ukraine and gained temporary protection status are entitled to healthcare, public education and employment services in the same way as Hungarian citizens. These rights and services cover especially:

- *the entitlement to a document proving her/his identity, right of residence in Hungary, and right for care, support, accommodation and work (as defined in other legislation);*
- *to undertaking work in Hungary without a permit, including temporary employment;*
- *to live in a reception center maintained by the Hungarian asylum authority and to receive care during the period of protection;*
- *the rights for basic healthcare, specialist oncology care, examination and medical treatment in the framework of other chronic patient care and entitlement for subsidized medicines and medical devices [pursuant to Section 6 Paragraph (2) of Government Decree no. 86/2022. (7 March)]*
- *the rights for nursery care, kindergarten care, dormitory accommodation and public education under the same conditions as Hungarian citizens, as well as the entitlement for school enrollment grant and to passing the graduation exam [pursuant to Government Decree no. 106/2022. (12 March)]*
- *to take part in certain higher education programs organized specifically to persons from Ukraine;*
- *the reimbursement of translation cost of their documents;*
- *the support for permanent departure from Hungary;*
- *the entitlement for regular subsistence support (see below).*

According to Government Decree no. 171/2022. (29 May) on data management issues affecting health care related to the crisis in Ukraine, Ukrainian persons are entitled to healthcare services without valid social service number, if they prove their temporary protection status. According to Government Decree no. 106/2022 (12 March) on the amendment of Government Decree no. 301/2007 (9 September) on certain rules regarding the employment and benefits of persons recognized as entitled to temporary protection and on the implementation of Act LXXX of 2007 on the right of asylum in view of the humanitarian disaster in a neighboring country during the state of emergency, persons from Ukraine with temporary protection status are entitled to the free institutional and holiday child catering without checking eligibility conditions, for the next 6 months from the submission of the request.

As persons with temporary protection status are not covered by the scope of Act III of 1993, the Hungarian Government set up an independent system of social care for displaced persons from Ukraine. This system contains monetary benefits and benefits in kind.

Regular subsistence support:

One part of the social care provided for displaced persons from Ukraine is a monetary benefit called “regular subsistence support”. According to Government Decree no. 106/2022 (12 March), persons fleeing Ukraine who:

- request subsidiary protection status,*
- are covered by the subsidiary protection status, or*
- are Hungarian nationals used to live in Ukraine*
are entitled to regular subsistence support.

The condition of entitlement to regular subsistence support is to request temporary protection status. Displaced persons from Ukraine who gained temporary protection status will be automatically entitled to the benefit.

The amount of the regular subsistence support is equal to the amount of

- the employment replacement support (22.800 HUF/month), in case of adults; and*
- the family allowance (13.700 HUF/month), in case of children [Section 5 paragraph (2) of Government Decree no. 171/2022. (as of 29 May)]*

If the entitled person does not accept the appropriate job the Hungarian employment authority offers her/him, the asylum authority ceases the disbursement of the benefit. The regular subsistence support will not be disbursed to the month in which the entitled person:

- is pursuing an activity in the context of public employment relationship or employment relationship with a Hungarian employer;*
- receives old age pension from the Hungarian pension system;*
- receives old age pension from abroad.*

For the disbursement of the benefit, the person with temporary protection status who is reached the age of 6 needs to appear in front of the asylum authority’s competent office according to her/his place of accommodation. In the case of person who has reached the age of 6 but has not reached the age of 18, her/his legal representative can fulfill the obligation to appear instead of them. If the obligation to appear is not fulfilled, or the entitled person does not take over the amount, the benefit will not be subsequently disbursement for the given month.

Accommodation of Ukrainian refugees:

The social care in kind is realized in the housing of displaced persons from Ukraine. According to Government Decree No. 104/2022 (March 12) on the support of providing accommodation to persons arriving with respect to a humanitarian disaster in a neighboring country during the state of danger, and on other related measures, the Protection Committee of the Capital of Budapest – the local coordinator authority of the duties derived from the war situation – has entered into a contract with the General Directorate of Social and Child Protection (hereinafter: SZGYF). In line

of this contract, the SZGYF, as the state maintainer of child protection and social institutions, made available its certain properties to the Protection Committee for the placement of displaced persons. Displaced persons from Ukraine are being accepted in the capital, in the city of Fót and in Szabolcs-Szatmár-Bereg County.

In accordance with Government Decree No. 104/2022 (as of 12 March), the institutions concluded an agreement with the Protection Committee of the Capital of Budapest provide accommodation and three meals a day for the displaced persons. The institutions strove to create a supportive and safe atmosphere where the admitted people could feel that their presence was not a burden. The admitted people can turn to the institutions with confidence regarding the management of their social affairs, and they tried to provide them with assistance. As part of the care, in addition to accommodation, the institutions also provide three meals a day, healthcare service and administrative assistance as needed. Furthermore, they are also involved in receiving, storing, and distributing donations.

So far, the institutions have accepted 534 refugees from Ukraine, of which 268 are children and 266 are adults. Among the refugees, 20 were persons with disabilities. Persons with disabilities are provided with care according to their needs and special rights, as well as access to the necessary healthcare services. Those who need to apply for temporary protection status are being transported to Nyíregyháza and Debrecen to help with the administration. The institutions also help refugees to continue their journey.

During the war period, the institutions built an excellent relationship with the UN refugee group, the representatives of the Helsinki Committee, who still visit the institutions weekly and expressed their satisfaction with the performance of this task”.

329. The Hungarian representative confirmed that following the ECSR conclusion Hungary is examining how to include social welfare services to be accessible to the nationals of the States parties.

330. The ETUC representative noticed that changes are being considered but he founds the text in the submission vague regarding the examination of the possibility of providing the services to nationals of the State parties. The Hungarian representative confirmed that the Government is really trying to solve this complex issue. The ETUC representative hoped for information on concrete proposals and asked if the recommendation as formulated at the moment would be acceptable. The Hungarian representative stated that the text of the recommendation was acceptable.

331. The recommendation was unanimously adopted.

RESC 14§1 LATVIA

332. The ECSR concluded that the situation in Latvia was not in conformity with Article 14§1 of the Charter on the ground that the access to social services by nationals of other States Parties is subject to an excessive length of residence requirement; and it had not been established that the fees for social services were not so high as to prevent the effective access of these services.

333. The ECSR noted that in 2017 Article 3 of the Law on Social Services and Social Assistance has been amended, specifying more precisely the procedure for requesting social services referred to in the law and for each of the groups of persons legally residing in Latvia. Most importantly, however, the requirement of permanent residence is still in force, which in turn requires five years of residence. It is this excessive length of residence requirement, only after which the national could enjoy access to social services on the equal footing to nationals, which is not in conformity with the Charter. Accordingly, the ECSR renewed its conclusion in this respect.

334. In the previous conclusions (Conclusions 2016 and Conclusions 2013), the ECSR also requested information on fees requested for various social services. The report again did not provide information on this matter. The ECSR considered that it had not been established that the fees for social services are not so high as to prevent the effective access of these services.

335. As regards the first ground of non-conformity, access to social services by nationals of other States Parties, it dates back to 2006. It's a fifth non-conformity on this ground (Conclusion 2021, 2017, 2013, 2009 and 2006). The ground has been excessive length of residence requirement.

336. The second ground, excessive fees for social services, appears for the first time, after the lack of information on that point since 2013. The GC has examined the follow-up to conclusions 2009, 2013 and 2017 (in 2010, 2014 and 2018, respectively). In 2010 it urged the Government to take all the necessary measures to bring the situation into conformity with the Charter and decided to await the next assessment of the ECSR. In 2014 and 2018, it noted the information provided and decided to await the next assessment of the ECSR.

337. The representative of Latvia provided the following information:

“Clarifying the issue, it should be noted that Latvian legislation does not set a specific requirement for residence length in order to access social services. Some local governments have set a requirement for prior residence - one year on average, with some exceptions where longer period is required. This helps local governments to distinguish who are residents of a particular territory.

However, crisis benefits can be obtained earlier. During the COVID - 19 pandemic, even foreign nationals staying in Latvia for short periods sometimes had to stay in Latvia and in some cases without means of subsistence. They could apply to the local government and receive crisis benefits in connection with the circumstances of the COVID - 19 pandemic.

Third-country nationals - asylum seekers whose applications are being processed (3 - 6 months), if they have no means of subsistence, are accommodated in the open-type centre “Mucenieki”, where shelter, catering, social worker services are provided, as well as the opportunity to learn the Latvian language. Children are provided with the opportunity to study in general education schools.

After obtaining refugee status, a person receives state benefits for a certain period of time (10 and 7 months over a 12-month period). Refugees may apply to local government social services for benefits and / or social services in accordance with the provisions of the Law on Social Services and Social Assistance.

A person who has acquired alternative status has the opportunity to receive basic social assistance benefits, night shelter and shelter services and also social care and social rehabilitation services for children.

On 1 April 2022, amendments to Article 3 (addition of paragraphs 7 and 8) of the Law on Social Services and Social Assistance came into force, which envisage expanding the target group of recipients of social services. Namely, the amendments stipulate that children who have been recognised as asylum seekers with special reception needs or less protected persons in the removal procedure by the institutions involved in the relevant procedure have the right to receive social rehabilitation of children who have suffered from violence. Also, the amendments stipulate that the persons who have suffered from violence and reside in the Republic of Latvia with a temporary residence permit, and also the persons who are third-country nationals or stateless persons who do not have legal basis to reside in the Republic of Latvia and who are detained (until the time of their removal or departure) to whom an alternative means of detention has been applied, or foreigners for whom the return decision has been suspended or for whom a time period for voluntary departure has been determined have the right to receive social rehabilitation financed from the State central budget as adult persons who have suffered from violence.

In addition, unaccompanied minors are provided with accommodation in a childcare institution. State budget reimburses the expenses. Children who have acquired alternative status have the right to receive social care services and the necessary social rehabilitation services specified in Article 13, Paragraph one of the Law on Social Services and Social Assistance, for example, social rehabilitation for children who have become addicted to drugs, toxic or other intoxicant substances or addictive processes.

Other social services for individuals are available upon payment as is the case for Latvian nationals. Persons who have obtained the status of destitute persons do not have to pay for the social services they receive.

The Ministry of Welfare have not received any signals from the local or regional administrations indicating the need to change the personal scope of the Law on Social Services and Social Assistance. Such need has not been reported by the institutions, including those responsible for the status of foreigners in Latvia.

Social service costs for the provision of services per person on average per year in 2020

Type of social service/group of social service recipients	On average per 1 customer per year in EUR
Home care	984.81
Day care centers TOTAL	387.09
persons with mental illnesses	
physically impaired	
pensioners	
other	
Crisis centers	1586.92
Shelters, night shelters	660.59
Service apartment	288.27
Group house (local government)	4651.4

Average costs of long-term social care and rehabilitation services per person per month in 2020:

1. State contracted organizations - EUR 818.46;
2. Local government etc. organizations for long-term care of children - EUR 1472.99;
3. Local government etc. organizations for long-term care institutions for adults - EUR 683.95.

With regard to social services provided by local government social services:

1. Social work service is free of charge;
2. In the provision of other social services, household income is assessed (Means Test), where services for the needy and / or low-income are mainly free of charge, for others depending on income and approach of particular local government, there are local governments where the share that a long-term care recipient pays out of own resources is small and the actual price of the service is covered by local government concerned. There are no exact statistics on this.

338. At the end, the representative of Latvia added that the issue was to be addressed by the Bureau to ECSR and asked Secretariat to explain.

339. The Chair asked what the average residence required was and if there are social services available upon payment as for the Latvian nationals. The Latvian representative replied each person residing in Latvia has the access. The Chair concluded that there is a misunderstanding concerning the scope, because the information provided belongs under the article 13 and not 14 and therefore the responses should be targeted.

340. The ETUC representative expressed his confusion about the interpretation of the ECSR and the information being provided concerning the five-year residence requirement, because there is one year residence requirement. He asked the Secretariat to clarify where the information comes from. He asked for the reports to reply clearly to the targeted questions and said it is a task of the GC to establish the targeted questions.

341. The Chair added that the material benefits are not the issue, but the access to the social services (not social assistance). The Latvian representative said that the confusion will not happen in the future because it was clearer after Mr Kristensen's explanation of what is expected under the article 14. Mr Kristensen explained that ECSR had the wrong information provided in the report.

342. The Chair suggested to take note of what the colleague explained and invite Latvia to provide more detailed information in the next report bearing in mind the difference of the social services and assistance and the length of residence required for the access to the social services”.

ARTICLE 23

343. The Secretariat stated in introduction that only the countries that do not have a specific legislation that tackle the possible discrimination of the old age persons were selected and it is only four.

344. Article 23 (or Article 4 of the 1988 Additional Protocol) requires to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

1. to enable elderly persons to remain full members of society for as long as possible, by means of:
 - a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
 - b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
2. to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
 - a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
 - b. the health care and the services necessitated by their state;
3. to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

RESC 23 MALTA

345. The ECSR concluded that the situation in Malta is not in conformity with Article 23 of the Charter on the ground that there is no legal framework prohibiting discrimination on grounds of age outside of employment.

346. With regard to age-based discriminations, the ECSR had previously asked (Conclusions 2009 and 2013), whether there was legislation (or an equivalent legal framework) designed to protect the elderly against discrimination outside employment. It concluded in 2017 that the situation was not in conformity with the Charter in this respect. It noted the preparation of legislation “the Commissioner for Older Persons Act” and asked for further information on the adoption and content of the legislation in particular as regards the prohibition of discrimination and assisted decision making. The ECSR noted that whilst the Commissioner is mandated to eliminate discrimination against older persons, the legislation does not explicitly prohibit discrimination on grounds of age in access to goods, facilities and services. The ECSR therefore reiterated its previous conclusion of non-conformity on this ground.

347. This non-conformity dates back to 2017 as regards adequate legal framework to combat age discrimination outside employment, as before there were only repeated questions. The GC has not yet examined the follow-up to this point.

348. The representative of Malta replied that Malta promotes the elimination of discrimination against of older persons and has an act in force that provides exactly this and after a consultation program, the bill in question is being widened in its scope. He presented the following information:

“With regards to the queries in connection with the legislative framework and other services available to older persons including institutional care, I do not have any new information yet, however with regards to the Personal Autonomy Bill I can confirm that is being re-drafted in order to widen its scope and therefore I am not in a position to provide an update on the progress of the mentioned bill.

349. Notwithstanding the lack of information mentioned, I can state that developments in this sector are ongoing. The elderly sector is a priority to the Maltese Government and has the aim to improve the lives of all elderly persons particularly those suffering from dementia. To this effect whereas up to several years ago we had a parliamentary secretary responsible for the elderly and active ageing, in the current legislature (in place since March) we have a Ministry for Active Ageing.

350. The main aim of this consolidation is to replace the fractured structure in place in previous legislatures whereby several ministries were responsible for an elderly related issues; under the current setup, elderly care, community care and homes for the elderly all now fall under the responsibility of the same ministry. This change also improves the synergy between the officially appointed bodies with responsibilities for the elderly given that now the current Ministry is responsible for the National Commissioner for Active Ageing, the Commissioner for Older Persons, the Social Care Standards Authority, the Foundation for Senior Services Board, and the Home Help Appeals Board.

351. Further to the above I can also state that we will be submitting new information on developments in this sector in the next report due by Malta.

With regards to adequate resources whereby the Committee asked for updated information on supplementary benefits that older persons may be entitled to such as the Senior Citizen Grant, I can state the following:

The Senior Citizen Grant is part of a much wider strategy intended to encourage elderly persons to remain in the community. To this effect elderly persons over the age of 75 years who are still living in their own home or with relatives are eligible for this grant amounting to a one-time payment paid annually amounting to €300 to those between 75 and 79 years of age, whereas the sum of €400 is paid annually to those over the age of 80 years.

Another benefit that elderly persons may be eligible to is the supplementary allowance which is income tested. Eligible persons over the age of 65 receive a rate that is higher than the rate paid to those eligible who are below the age of 65. The maximum weekly rate payable for an elderly over the age of 65 is €24.03 for a married elderly person maintaining a spouse and €14.39 for a single elderly person.

All elderly person in receipt of a contributory pension or a non-contributory pension also receive statutory bonuses with their pension payments. Such bonuses are the six monthly bonus amounting to €5.20pw, the special bonus amounting to €3.12pw, and the cost of living bonus amounting to a minimum of €3.08pw and a maximum of €13.96pw. As a result of a budget measure for this year, the cost of living bonus will gradually be paid equally to all eligible pensioners thus eliminating the discrepancy in amount of COLA bonus received according to age.

Other benefits elderly persons may be eligible to include medical assistance amounting to €27.85pw, provided a medical assessment and a means test are satisfied, and energy benefit up to a maximum of circa €200 annually.

The Committee further asked that the next report Malta provides updated information on the amount of the non-contributory pension:

Current data shows that there are three different rates applicable for the non-contributory pension for the current year as follows;

- i. Weekly married rate if both spouses qualify is €161.63
- ii. Weekly married rate where only one spouse qualifies is €115.25
- iii. Weekly rate where person is single is €128.86

Such weekly rates are annually increased by COLA as awarded through the annual budget.

Maltese legislation also provides that when a person becomes eligible to the above mentioned pension, such person is automatically eligible to several other benefits as previously mentioned. So in actual fact the minimum weekly amount received by a single elderly person over the age of 65 is €161.13 and this could increase to €188.98 if such person is also eligible to the medical assistance provided a medical assessment is satisfied. Similarly, the weekly amount due to a single elderly person over the age of 75 or over 80 could even increase to €204.92.

Furthermore, married elderly persons over the age of 65 receive a weekly minimum of €204.97 which could increase to €232.82 if eligible for medical assistance. If both spouses are eligible for medical assistance the weekly amount received could further increase to €260.67.

Assuming elderly are all single persons									
	AGE PENSION	6MBO	SPBO	CLBO	SUP. ALL.	EB	MED. ASS.	SCG	TOTAL
	€	€	€	€	€	€	€	€	€
OVER 65	128.86	5.2	3.12	5.72	14.39	3.85	27.85	0.00	188.99
OVER 75	128.86	5.2	3.12	13.96	14.39	3.85	27.85	5.77	203.00
OVER 80	128.86	5.2	3.12	13.96	14.39	3.85	27.85	7.69	204.92
In all three scenarios it is assumed that all are eligible to medical assistance, and still living in their own residence.									

Assuming elderly are all married									
	AGE PENSION	6MBO	SPBO	CLBO	SUP. ALL.	EB	MED. ASS.	SCG	TOTAL
	€	€	€	€	€	€	€	€	€
OVER 65	161.63	5.20	3.12	5.72	24.03	5.27	27.85	0.00	232.82
OVER 75	161.63	5.20	3.12	13.96	24.03	5.27	27.85	5.77	246.83
OVER 80	161.63	5.20	3.12	13.96	24.03	5.27	27.85	7.69	248.75
In all three scenarios it is assumed that all are eligible to medical assistance and still living in their own residence.									

Assuming elderly are all married									
	AGE PENSION	6MBO	SPBO	CLBO	SUP. ALL.	EB	MED. ASS.	SCG	TOTAL
	€	€	€	€	€	€	€	€	€
OVER 65	161.63	5.20	3.12	5.72	24.03	5.27	55.70	0.00	260.67
OVER 75	161.63	5.20	3.12	13.96	24.03	5.27	55.70	11.54	280.45
OVER 80	161.63	5.20	3.12	13.96	24.03	5.27	55.70	15.38	284.29

In all three scenarios it is assumed that;

i. that spouses both qualify for medical assistance.

ii. that spouse are both >75 and >80 thus both eligible to SCG

352. The Chair thanked on the presentation and recalled that the legal interpretation lays on the ECSR and that from Maltese presentation Malta was under way of compliance but not in conformity at the moment.

353. The French representative believed that there were efforts to come into alignment with the requirements. The ETUC representative agreed that there were new strategies and the work had been in progress, however, he believes that it is a similar situation as with Denmark (Malta has a government and continues to work on the legislation), so he would suggest to have a same approach as with Denmark without a need for a good practices overview.

354. The Belgian representative believes GC received a lot of information on Malta moving in a good direction, but although GC needs consistency, Malta doesn't need a recommendation.

355. The Chair stressed that because Malta is making all these efforts, recommendation would not be a sanction, but encouragement to continue the efforts they are already making. The Secretariat added that the recommendation would have a positive tone and come back to ECSR as that Malta already took action to come in conformity with the Charter. The representative of Malta agreed with the wording of the recommendation and would like his authorities to be encouraged to continue the process. French representative thanked for the positive reaction of Malta and understanding that there will be more visibility of the efforts done and the Irish representative agreed.

356. The results of the voting were 0 against, 17 abstentions and 18 in favour, so the recommendation was not carried.

RESC 23 THE NETHERLANDS

357. The ECSR concluded that the situation in the Netherlands is not in conformity with Article 23 of the Charter on the ground that there is no legislation prohibiting age discrimination outside employment.

358. With regard to age-based discriminations, the ECSR had noted that equal treatment of all people residing in the Netherlands is guaranteed under article 1 of the Dutch Constitution. Moreover, the "Equal Treatment in Employment, in force as of 1 May of 2004, prohibits direct and indirect distinction in employment relations on the basis of age. However, there is no specific legislation addressing discrimination against elderly people in other areas. The Committee recalled that the prohibition of discrimination based on age should be progressively expanded to also include the

areas of social security, health care, and provision of goods and services and that an adequate legal framework is a fundamental measure to combat age discrimination in these areas. Consequently, it considered that the existing legislation is insufficient to meet the requirements of the Charter in this respect.

359. The previous Conclusion of 2013 found the situation not to be in conformity on the ground that the scope of the legal framework to combat age-discrimination outside employment was not sufficiently wide (Conclusions 2013). In 2009, there was a deferral, and the ECSR asked whether non-discrimination legislation to protect elderly persons outside the field of employment existed, or whether the authorities planned to legislate in this area.

360. The GC examined the follow-up to this point in 2014. It noted that the Netherlands considered that it respects Article 23 of the Charter both in legislation and practice. It also noted that the future EU directive would be transformed into national law and decided to await the next assessment of the ECSR.

361. The representative of Netherlands provided the following information:

- *Discrimination on any ground is prohibited under Article 1 of the Dutch Constitution. This provision therefore also refers to discrimination on the ground of age. Under Article 1 of the Dutch Constitution non-discrimination, i.e. equal treatment, of all people residing in the Netherlands is guaranteed.*
- *The age criterion is specifically dealt with in the Equal Treatment in Employment (Age Discrimination) Act (WGBL), which entered into force on 1 May 2004 and prohibits discrimination in employment and training on the grounds of age.*
- *Pursuant to this fundamental principal of non-discrimination the Dutch Government places great importance on people fully participating in society and combating discrimination, including where it concerns older persons.*
- *Apart from the legal framework that prohibits discrimination on any ground, there are several measures in place that strengthen the position of older people. Older people are seen as an important group in society, that is also becoming increasingly diverse. The life experience of older people allows them to act as educators, mentors, nannies and volunteers, for example. In providing long-term care the care needs are decisive, irrespective of the age of those in need of care.*
- *The new Cabinet that was installed in January 2022, wants care and support for older people to be adapted to the preferences of these persons. The government is therefore entering into cooperation with, among others, social and older people's organisations and care parties (such as care providers, associations for healthcare professionals and welfare workers, municipalities, health insurers and building cooperations) and is taking coherent measures. These measures have been translated into a concrete program "Housing, Support and Care for Older Persons" together with the parties, contributing to a broad social movement to make real change in the way support and care are organised. This is a coherent program that includes different actions aimed at 1) aging vitally and independently (prevention, reablement, local support); 2) optimal basic care (district nurses, general practitioners, care at home); 3) appropriate long-term care (updated quality standards); 4) housing and care for older clients (creating new clustered housing with care nearby); and 5) care labour market and innovation (attractive and innovative working conditions, care technology).*

- *Since 2018 there is an informal council of older people (de Raad van Ouderen). This council advises the Government on important topics concerning older persons and it represents the interests of older persons in the public debate.*
- ***In conclusion:*** *The Netherlands believes that the legal framework prohibiting discrimination on any ground is adequate, including access to remedies, and that this framework together with the existing and new policy measures that are taken, enable older persons to remain full members of society.*

362. The Secretariat clarified that issue is not that there might be no discrimination in practice based on certain measure, but lack of particular legislation. The ECSR is not saying there is discrimination but that there is a lack of legislation.

363. The representative replied that Netherlands is in exactly in the same position as Denmark and Malta. The ETUC representative summarized the similarities between three countries and he does not see a similarity regarding the legislation, because in Denmark and Malta there was a legislation in progress, but in Netherlands there is no information on new initiatives.

364. The representative of Netherlands said that she thinks a way forward is to exchange practices but not in a context of recommendation. The Chair noted the GC does not need the agreement of the representative to vote on recommendation.

365. The representative of Belgium asked if maybe there should be a group vote for several countries in the same situation, to make a difference between recommendations to draw a distinction between them. The Secretariat repeated that the recommendations are a useful tool for the visibility of what the states are doing and to trigger the thinking of further possibilities. The recommendation needs to be drafted for each country to put forward. Referring to the mandate there shouldn't be a talk about it because the representatives are here to take positions and anyway it is being discussed with them what is going to be included in the recommendation.

366. The results of the voting were 22 in favour, 2 against and 13 abstentions, so the recommendation was carried.

RESC 23 NORWAY

367. The ECSR concluded that the situation in the Netherlands was not in conformity with Article 23 of the Charter on the ground that there is no legislation prohibiting age discrimination outside employment.

368. The ECSR had previously concluded that the situation in Norway was not in conformity with Article 23 of the Charter on the grounds that the legislative framework prohibiting discrimination on grounds of age outside of employment was inadequate (Conclusions 2013). No information was provided on this issue in the 2020 report. Therefore, the ECSR reiterated its previous conclusion.

369. The previous Conclusion of 2013 found the situation not to be in conformity on the ground that there was no specific legislation prohibiting discrimination outside employment. Indeed, there was specific legislation on Anti-Discrimination regarding disability, but the ECSR recalled that elderly persons may be discriminated on the ground of their age regardless of their physical condition which might or might not fall under the definition of disability. The Committee recalled that an adequate legal framework is a fundamental measure to combat age discrimination in many areas of social life and considered that the existing legislation is insufficient to meet the requirements of the Charter in this respect.

370. The GC examined the follow-up to this point in 2014. A new draft proposal on anti-discrimination and age was expected to be discussed, so the GC decided to await the next assessment of the ECSR.

371. The presentation of the representative of Norway presented the following information:

“The Norwegian Constitution

By the Storting (Norwegian Parliament) decision of 13 May 2014, the Constitution of Norway was supplemented with a number of human rights provisions. The principles of equality and non-discrimination were incorporated into Article 98 of the Constitution with the following wording:

"All people are equal under the law.

No human being must be subject to unfair or disproportionate differential treatment."

The Equality and Anti-Discrimination Act

The Equality and Anti-Discrimination Act was adopted in 2017 and entered into force 1 January 2018. The Equality and Anti-Discrimination Act replaced The Gender Equality Act, The Discrimination Act on sexual orientation, gender identity and gender expression, The Discrimination Act on ethnicity and the Discrimination and Accessibility Act. Most of the provisions in the former Gender Equality Act were continued in the new Act.

The Equality and Anti-Discrimination Act is available in English:
<https://lovdata.no/dokument/NLE/lov/2017-06-16-51>

The Equality and Anti-Discrimination Act applies to all areas of society, including family life and other personal relations (Section 2).

The Act prohibits direct and indirect discrimination and harassment based on gender, pregnancy, leave in connection with birth or adoption and care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression and age (Section 6, 7, 8 and 13). The Act further states that the prohibition also applies if a person is discriminated against on the basis of his or her connection with another person (Section 6). (However, The Act does not apply to discrimination on the basis of age in circumstances regulated by Chapter 13 of the Working Environment Act or Chapter 10 of the Ship Labour Act).

Further, the Act has provisions that prohibit retaliation (Section 14), instructions to discriminate, harass or retaliate (Section 15) and participating in discrimination, harassment, retaliation or the issuing of instructions (Section 16).

Section 9, 10 and 11 regulate when differential treatment is lawful. Section 9 is the general provision on lawful differential treatment. Section 10 regulates lawful differential treatment based on pregnancy, childbirth or breastfeeding and leave in connection with childbirth or adoption. Section 11 regulates positive action.

The Act also has provisions specifically addressing discrimination in working life and education. Section 29 clarifies that the prohibition against discrimination also applies to announcement of a position, appointment, promotion, reassignment of a position, training and skills development, pay and working conditions and cessation. Section 33 specifies workers' rights in connection with parental leave.

The Prohibition against collection of information (including information about an applicant's pregnancy or plans to have or adopt children) during appointment processes is placed in Section 30.

Section 34 states that women and men in the same undertaking shall receive equal pay for the same work or work of equal value. Section 32 regulates employer's disclosure duty relating to pay.

The provisions on active equality efforts are placed in the Chapter 4 of the Act. In June 2019, The Storting adopted amendments in the provisions on active equality efforts in the Equality and Anti-Discrimination Act. The amendments entered into force on 1 January 2020.

According to Section 24 in the Equality and Anti-Discrimination Act, public authorities have a duty make active, targeted and systematic efforts in all their activity to promote equality and prevent discrimination. This includes an obligation for public authorities to prevent harassment, sexual harassment and gender-based violence, and to counter stereotyping. Section 24 second paragraph states that public authorities have a duty to issue a statement on their work with equality issues.

The Equality and Anti-Discrimination Act Section 26 first paragraph states that all employers, in their operations, shall make active, targeted and systematic efforts to promote equality, prevent discrimination on the basis of gender, pregnancy, childbirth or adoption, care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression or combinations of these grounds, and seek to prevent harassment, sexual harassment and gender-based violence. Such efforts shall encompass the areas of recruitment, pay and working conditions, promotion, development opportunities, accommodation and the opportunity to combine work with family life. The obligation to make active efforts does not outline specific measures to be taken but calls upon the employer to design measures that address the discrimination challenges faced by the enterprise.

Section 26 second paragraph states that all public undertakings, regardless of size, and private undertakings that ordinarily employ more than 50 persons shall, in the context of their operations, apply a specified work method in their gender equality work. This also applies to private undertakings that ordinarily employ between 20 and 50 persons if requested by the employees or employee representatives. These undertakings shall a) investigate whether there is a risk of discrimination or other barriers to gender equality, including by reviewing pay conditions by reference to gender and the use of involuntary part-time work every two years, b) analyse the causes of identified risks, c) implement measures suited to counteract discrimination and promote greater equality and diversity in the undertaking, and d) evaluate the results of efforts made pursuant to a) to c). These efforts shall be made on an ongoing basis and in cooperation with representatives of the employees.

According to Section 26 a, employers who have obligations pursuant to Section 26 second paragraph, shall issue a statement on the actual status of gender equality in the undertaking and what the undertaking is doing to comply with the activity duty pursuant to Section 26. This includes an obligation to issue a statement on the results of the pay review and and the review of the use of involuntary part-time work.

According to the new Section 26 b, all employers are given a disclosure duty relating to equality work.

Employer and employee organisations are obliged to promote equality and prevent discrimination according to Section 25.

The Norwegian enforcement system for discrimination cases

The Norwegian enforcement system for discrimination cases was reorganized in 2018. The changes implied that the handling of complaints was transferred from the Equality and Anti-Discrimination Ombud to a new Anti-Discrimination Tribunal.

The Anti-Discrimination Tribunal is a low threshold alternative to the court system. The Tribunal handles most of the discrimination cases. From January 2020 the Tribunal can also handle cases on sexual harassment.

The Equality and Anti-Discrimination Ombud shall work to promote genuine equality and prevent discrimination in all sectors of society on the basis of gender, pregnancy, leave in connection with childbirth or adoption, care responsibilities, ethnicity (which includes national origin, descent, skin color and language), religion, belief, disability, sexual orientation, gender identity, gender expression and age. The Ombud has a consultative and advisory service for individuals as well as private and public enterprises. The Ombud also monitors that Norwegian law and administrative practice are in accordance with Norway's obligations under UNCERD, UNCEDAW and UNCRPD. From 1 January 2020, the Ombud was given mandate to scrutinize the activity duty of public authorities and employers, as well as their new duties to issue a statement on their equality work according to the Equality and Anti-Discrimination Act. The new provisions strengthen the Ombud's role in this field. The Ombud will be entitled to make follow-up visits to enterprises and may require access to the enterprises' documentation relating to the employers' equality and anti-discrimination work.

The Equality and Anti-Discrimination Ombud Act in English:
<https://lovdata.no/dokument/NLE/lov/2017-06-16-50>

Amendments in the active equality duties

In June 2019, The Storting adopted amendments in the provisions on active equality efforts in the Equality and Anti-Discrimination Act. The amendments entered into force on 1 January 2020.

First, the new rules strengthen public authorities' duties to make efforts against discrimination in all their activities on the basis of gender and other protected discrimination grounds and also give public authorities a duty to issue a statement on their work with equality issues. From 2020 it is also clarified that the duty to make active, targeted and systematic efforts to promote equality and prevent discrimination includes an obligation for public authorities to prevent harassment, sexual harassment and gender-based violence, and to counter stereotyping.

Second, the amendments clarify and strengthen the employer's duties to proactively promote equality and prevent against discrimination (Section 26, 26 a, 26 b, 26 c). As before 2020, all employers regardless of size and sector shall make active, targeted and systematic efforts to promote equality and prevent discrimination in all their operations (Section 26 first paragraph). The new rules clarify that the duty to make active, targeted and systematic efforts includes intersectional discrimination ("combinations of these grounds"). The new rules also clarify that the duty includes an obligation to prevent harassment, sexual harassment and gender-based violence and that the employers are obligated to make efforts encompassing the areas of recruitment, pay and working conditions, promotion, development opportunities, accommodation and the opportunity to combine work with family life. According to the new rules, all employers, regardless of size and sector, shall document how they work to fulfil their obligations to work actively, targeted and systematic to promote equality and prevent discrimination (Section 26 fourth paragraph).

As before 2020, all public undertakings and private undertakings that ordinarily employ more than 50 persons shall apply a specified work method in their gender equality work (Section 26 second paragraph). According to the amendments, this duty also applies to employers that ordinarily employ between 20 and 50 persons if requested by the employees or employee representatives. Further, the obligatory work method is expanded to include an obligation to review pay conditions by reference to gender and the use of involuntary part-time work every two years.

The new rules also strengthen the employers' duty to issue statements on the actual status of gender equality in the undertaking and what the undertaking is doing to comply with the activity duty pursuant to Section 26 (Section 26 a). This duty applies to employers with obligations pursuant to Section 26, second paragraph, including employers that ordinarily employ between 20 and 50 persons if requested by the employees or employee representatives. The statement on the actual status of gender equality shall include, among others, gender balance in the undertaking, proportion of part-time work, proportion of temporary employees, the results on pay review and the review of the use of involuntary part-time work.

The Equality and Anti-Discrimination Ombud is given mandate to scrutinize the activity duty of public authorities and employers, as well as their new duties to issue a statement on their equality work according to the Equality and Anti-Discrimination Act. The new provisions strengthen the Ombud's role in this field. The Ombud will be entitled to make follow-up visits to enterprises and may require access to the enterprises' documentation relating to the employers' equality and anti-discrimination work. Employers' breach of the duty to issue statement (Section 26 a) can be brought before the Anti-Discrimination Tribunal".

372. The Chair thanked Norway and concluded that there is no need to discuss the non-conformity. The representatives of Ireland and ETUC also thanked on the progress. The representative of ETUC concluded that the Norwegian example is an example of good practices. The Chair agreed and said it is not necessary to vote on the recommendation but just take note and wait for ECSR to assess the situation. The GC agreed.

ARTICLE 30

373. The Secretariat recalled that States Parties should demonstrate that poverty and social exclusion reduction is an embedded aspect of all the relevant strands of public policy. The overall and coordinated approach must link and integrate policies in a consistent way, moving beyond a purely sectoral or target group approach. Normally, some sort of coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty, should be provided.

374. The ECSR takes into account a set of indicators in order to assess in a more precise way the effectiveness of policies, measures and actions undertaken by States Parties within the framework of this overall and co-ordinated approach. One of the key indicators in this respect is the level of resources (including any increase in this level) that have been allocated to attain the objectives of the strategy, in so far as "adequate resources are an essential element to enable people to become self-sufficient".

375. In addition, the main indicator used to measure poverty is the relative poverty rate (this corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income).

376. The ECSR emphasizes the very close link between the effectiveness of the right recognized by Article 30 of the Charter and the enjoyment of the rights recognized by other provisions, such as the right to work (Article 1), access to health care (Article 11), social security allowances (Article 12), social and medical assistance (Article 13), the benefit from social welfare services (Article 14), the rights of persons with disabilities (Article 15), the social, legal and economic protection of the family (Article 16) as well as of children and young persons (Article 17), right to equal opportunities and equal treatment in employment and occupation without sex discrimination (Article 20), the rights of the elderly (Article 23) or the right to housing (Article 31), without forgetting the important impact of the non-discrimination clause (Article E), which obviously includes non-discrimination on grounds of poverty.

377. Consequently, together with the indicators mentioned above, when assessing the respect of Article 30, the ECSR also takes into consideration the national measures or practices which fall within the scope of other substantive provisions of the Charter. This approach does not mean that a conclusion of non-conformity or a decision of violation of one or several of these provisions automatically or necessarily lead to a violation of Article 30; but such a conclusion or decision may, depending on the circumstances, be relevant in assessing conformity with Article 30.

378. The Secretariat recalled that overall, in 2021 examination cycle a problematic issue was the access to social services by nationals of other States Parties. The problem of restrictive access to such services to foreigners remained in Azerbaijan, the Czech Republic, Hungary, Latvia, Poland, Serbia and Türkiye (Czech Republic, Serbia and Türkiye had non-conformity conclusion on that ground for the first time).

RESC 30 ESTONIA

379. The ECSR concluded that the situation in Estonia was not in conformity with Article 30 of the Charter on the ground that there was no adequate overall and coordinated approach in place to combat poverty and social exclusion.

380. In its conclusion, the ECSR noted information on measures taken for older people in view of their very high poverty rate, such as improving of the access to labour market services and increasing the national pension (from €395 in 2016 to €483 in 2019), about an allowance which was introduced in 2017 (a lump sum support of €115 per year) for old-age pensioners living alone and whose pension was 1.2 times lower than the amount of the average old-age pension. The Committee notes that the person's other resources (salary, social allowances or income) are not taken into account when granting the allowance, and that it is neither subject to income tax nor included in income for the purposes of calculating the subsistence benefit. The ECSR also observed an increase in the employment rate of persons aged 63 to 74 during the reference period, from 29.8% in 2016 to 32.6% in 2019. However, it further noted that the at-risk-of-poverty rate among persons over 65 was extremely high and has kept growing since 2010. According to the European Semester Country Report Estonia 2018, the poverty risk among older people has increased, largely because pensions have not been indexed to living standards.

381. The report indicated that general economic measures and the improvement of economic performance affected the employment of disadvantaged groups. Job-seeking pensioners continued to benefit from active labour market policies similarly to other groups. It particularly stressed that the "Employment programme for 2017-2020" was launched with the aim of preventing unemployment and to support structural changes in the economy. The ECSR observed that, although all the specific measures were taken during the reference period, the at-risk-of-poverty rate (cut-off point: 60% of median equivalised income after social transfers) was 21.7% in 2019.

382. As regards the data demonstrating that the budgetary resources allocated for combating poverty and social exclusion, the report indicated that in 2018 some amendments were introduced to the subsistence benefit regulation in order to make the scheme more flexible and encourage beneficiaries to take up employment. In particular, from 2019 onwards, the subsistence level for a person living alone or for the first family member ('single level') amounted to €150 per month; this rises by 120% for each family member who is a minor (since 2018, €180), and by 80% for each additional adult (€120). In addition, beneficiaries of subsistence allocations where all the family members are minors are entitled to an additional monthly social benefit of €15. According to the report, family allowances have also been increased, especially for large families and for children with disabilities (e.g. since 2020 – outside the reference period – allowances have been doubled in cases of moderate or severe disability, and tripled in cases of profound disability).

383. The report indicated that social transfers have played a significant role in reducing poverty. In 2018, according to the report, various state allowances, benefits and pensions reduced the population's relative poverty by 45. The ECSR nevertheless reiterated that the data provided in the

report did not match the Eurostat data for the same indicators, and that it takes into account the Eurostat data on poverty. Consequently, the ECSR noted that the effect of social transfers increased slightly during the reference period, from 24.91% to 28.15%. These amounts, however, were below the EU-28 averages of 31.64% and 33.07%, respectively.

384. The ECSR noted from the European Semester Country Report Estonia 2018, that Estonia spends less on social protection than its EU peers and that its social safety net is inadequate, particularly in view of its increasingly ageing population. Per capita spending on social protection and spending on social protection (weighted average) are among the lowest in the EU.

385. The ECSR also referred to its 2021 conclusions of non-conformity regarding other relevant provisions of the Charter for an assessment of conformity with Article 30, in particular to:

- Article 12§1 and its conclusion that the minimum level of several social security benefits (sickness, unemployment, contributory pensions) is inadequate;
- Article 13§1 and its conclusion that the level of social assistance paid to a single person without resources is not adequate.

386. The ECSR observed that despite some measures taken to ensure more adequate pensions, subsistence allowances, and higher family allowances, an increasing share of the population was still at risk of poverty. This concerned especially the older people. On the basis of the above, the ECSR considered that the situation was not in conformity with Article 30 on the ground that there was no adequate overall and coordinated approach in place to combat poverty and social exclusion.

387. The situation led previously to a deferral in 2017 pending request of comprehensive information. It's the first non-conformity, however, it is quite broad and pointing to the more systemic problem which encompasses several rights under the Charter.

388. The Estonian representative provided the following information:

“In Estonia the approach for combatting poverty and social exclusion is set in strategic documents that altogether form the basis for the state budget. In 2012, the strategy “Estonia 2020” was established to set goals for increasing competitiveness and frame the main policy measures to achieve it. One of the strategic goals was to reduce the share of people living in at-risk-of-poverty to 15%. Main measures included investments in education, higher employment, and sustainability of public sector social spending.

Since 2020, the new strategy “Estonia 2035”, approved at the parliamentary level, acts as a reform plan to meet the Estonian long-term development needs. The strategy aims to steadily reduce the share of people living in persistent at-risk-of-poverty. The achievements of the objectives are monitored by the customized platform “Tree of truth” that visualizes the health of Estonian society. Sectoral development plans, which in case of poverty and social exclusion is Welfare Development Plan, are approved at the Governmental level and set more detailed targets and activities in the field. The first Welfare Development Plan was approved in 2016 and it was the first time when strategic goals in employment, working life, equality and poverty were brought under the same umbrella.

For reducing poverty, the Plan aims to support an activating, adequate, and sustainable social protection to increase the economic coping of people. It also aims to ensure the social protection of people through social security benefits, and other assistance, also guaranteeing the adequacy of the minimum benefits, and aims to improve people’s opportunities to cope independently, live in a community, and participate in society. The Plan also aims to ensure high-quality social services that support independent coping and care facilities that meet people’s needs.

As mentioned in our report, the Welfare Development Plan Committee which consists of representatives of social partners, NGOs active in social sector and other ministries, was established to lead the elaboration and implementation of the Welfare Development Plans, and also approve the development goals, measures, activity plans and yearly reports. This Committee also acts as an

advisory body concerning the Structural Funds priorities in the fields of social inclusion and access to labour market.

The Welfare Development Plan 2016-2023 includes targets to reduce the relative poverty rate to 15% and the absolute poverty rate to 5,8% by 2023. In the new Welfare Development Plan 2023-2030 we plan to set targets to reduce the number of persons at risk of poverty or social exclusion by 39 thousand persons and the children's at risk of poverty and social exclusion rate by 13 thousand persons by 2030.

During recent years the relative poverty rate in Estonia has been around 21-22% and the absolute poverty rate was 2,2% in 2020. Both, relative poverty and absolute poverty threaten the unemployed and families with a single working member the most. In addition to the unemployed, relative poverty threatens women the most, particularly older women who are living alone.

With the gradual increase in the minimum wage, both the unemployment allowance and the minimum unemployment insurance benefit have increased. Also, in 2020 amendments were made in the Unemployment Insurance Act and in the Labour Market Services and Benefits Act that increased the unemployment allowance and the unemployment insurance benefit rates. Estonia is changing the principles of the unemployment insurance system to increase the flexibility of the unemployment benefit system and provide the unemployed with greater social protection in a more difficult labour market situation. In the future the period of the unemployment insurance benefits is linked to economic cycles. If the unemployment rate, which reflects what is happening in the economy, is high, the unemployment insurance benefit will be extended. The unemployment insurance benefit may be extended by up to 120 calendar days.

The adequacy of pensions and the financial sustainability of the pension system is analysed every five years – next analyse will be completed by the end of this year (2022). Annual pension indexations have constantly raised Estonia's old-age pension. To prevent the risk of old-age pension poverty, the Estonian old-age pension formula was changed in 2021 so that it protects lower-income pensioners the most (the share of the component based on solidarity was increased). In 2022 we have also increased the additional support for pensioners living alone in Estonia as it is one possible risk factor for poverty (from €115 to €200).

As of June this year the subsistence-level has increased to €200 per month for a single person or first family member and to €240 per month for every underaged family member. In 2022 the number of persons receiving subsistence benefit has increased significantly on account of the refugees that have come to Estonia due to Russia's aggression in Ukraine. In August 2022 4141 families with 9741 family members that have been granted international protection received subsistence benefit.

Additionally, in 2022 measures have been taken to prevent and alleviate energy poverty and we have also put more effort in supporting families - for that aim in 2023 several increases in family benefits will take place.

As for social services for combatting poverty, we have services that support independent coping, food assistance services, services for decreasing debts and counselling persons in debt as well as different labour market services to support the unemployed”.

389. The Chair opened the floor for discussion. The representative of Ireland stated that he believes the conclusion of ECSR is very clear but also that Estonia has very elaborated plan which is adequate. The French representative agreed that there are the strategic plans in Estonia. The GC took note of the situation and invited Estonia to provide the information in the next report.

APPENDIX I
List of participants

- (1) 144th meeting, hybrid, 30 May-3 June 2022
 (2) 145th meeting, hybrid, 21-25 November 2022

List (1)

List of participants

Meeting – 30 May – 3 June 2022 / Réunion – 30 mai – 3 juin 2022
Hybrid Form

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145th meeting of the Governmental Committee

21-25 November 2022

hybrid

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Appendix II

Table of signatures and ratifications

The **dates on a dark blue background** correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

Member States	Signature	Ratification	Acceptance of collective complaint procedure	
Albania	21/09/1998	14/11/2002		
Andorra	04/11/2000	12/11/2004		
Armenia	18/10/2001	21/01/2004		
Austria	07/05/1999	20/05/2011		
Azerbaijan	18/10/2001	02/09/2004		
Belgium	03/05/1996	02/03/2004	23/06/2003	
Bosnia and Herzegovina	11/05/2004	07/10/2008		
Bulgaria	21/09/1998	07/06/2000	07/06/2000	
Croatia	06/11/2009	26/02/2003	26/02/2003	
Cyprus	03/05/1996	27/09/2000	06/08/1996	
Czech Republic	04/11/2000	03/11/1999	04/04/2012	
Denmark	* 03/05/1996	03/03/1965		
Estonia	04/05/1998	11/09/2000		
Finland	03/05/1996	21/06/2002	17/07/1998	X
France	03/05/1996	07/05/1999	07/05/1999	
Georgia	30/06/2000	22/08/2005		
Germany	* 29/06/2007	29/03/2021		
Greece	03/05/1996	18/03/2016	18/06/1998	
Hungary	07/10/2004	20/04/2009		
Iceland	04/11/1998	15/01/1976		

Ireland		04/11/2000	04/11/2000	04/11/2000	
Italy		03/05/1996	05/07/1999	03/11/1997	
Latvia		29/05/2007	26/03/2013		
Liechtenstein		09/10/1991			
Lithuania		08/09/1997	29/06/2001		
Luxembourg	*	11/02/1998	10/10/1991		
Malta		27/07/2005	27/07/2005		
Republic of Moldova		03/11/1998	08/11/2001		
Monaco		05/10/2004			
Montenegro		22/03/2005	03/03/2010		
Netherlands		23/01/2004	03/05/2006	03/05/2006	
North Macedonia		27/05/2009	06/01/2012		
Norway		07/05/2001	07/05/2001	20/03/1997	
Poland		25/10/2005	25/06/1997		
Portugal		03/05/1996	30/05/2002	20/03/1998	
Romania		14/05/1997	07/05/1999		
San Marino		18/10/2001			
Serbia		22/03/2005	14/09/2009		
Slovak Republic		18/11/1999	23/04/2009		
Slovenia		11/10/1997	07/05/1999	07/05/1999	
Spain		23/10/2000	17/05/2021	17/05/2021	
Sweden		03/05/1996	29/05/1998	29/05/1998	
Switzerland		06/05/1976			
Türkiye		06/10/2004	27/6/2007		
Ukraine		07/05/1999	21/12/2006		
United Kingdom	*	07/11/1997	11/07/62		
Number of States	46	2 + 44 = 46	7 + 35 = 42	16	

The **dates in bold** on a grey background correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

Appendix III - List of Conclusions of non-conformity examined orally following the proposal of the European Committee of Social Rights (RESC + ESC)

ARTICLE 3
1. RESC 3§1 ARMENIA
2. RESC 3§2 ALBANIA
3. RESC 3§2 ROMANIA
4. ESC 3§1 (3§2 RESC) UNITED KINGDOM
5. RESC 3§3 ESTONIA
6. RESC 3§3 RUSSIAN FEDERATION
7. RESC 3§3 TÜRKIYE
8. RESC 3§4 ALBANIA
9. RESC 3§4 TÜRKIYE
ARTICLE 11
10. RESC 11§1 AZERBAIJAN
11. RESC 11§1 GEORGIA
12. RESC 11§1 MOLDOVA
13. RESC 11§1 ROMANIA
14. RESC 11§2 GEORGIA
15. RESC 11§3 AZERBAIJAN
16. RESC 11§3 GEORGIA
17. RESC 11§3 MOLDOVA
18. RESC 11§3 ROMANIA
ARTICLE 12
19. RESC 12§1 ARMENIA
20. RESC 12§1 ESTONIA
21. RESC 12§1 GEORGIA
22. RESC 12§1 HUNGARY
23. RESC 12§1 LATVIA
24. RESC 12§1 MONTENEGRO
25. RESC 12§1 ROMANIA
26. RESC 12§3 ARMENIA
27. RESC 12§3 ROMANIA
ARTICLE 13
28. RESC 13§1 ARMENIA
29. RESC 13§1 BOSNIA HERZEGOVINA
30. ESC 13§1 CROATIA
31. ESC 13§1 CZECH REPUBLIC
32. RESC 13§1 MONTENEGRO
33. RESC 13§1 ROMANIA
34. ESC 13§1 SPAIN
35. ESC 13§1 UK
36. ESC 13§4 CROATIA
37. RESC 13§4 MONTENEGRO
ARTICLE 14
38. RESC 14§1 AZERBAIJAN
39. RESC 14§1 HUNGARY
40. RESC 14§1 LATVIA
41. ESC 14§1 POLAND
ARTICLE 23 RESC / 4AP
42. 4AP DENMARK
43. RESC 23 MALTA
44. RESC 23 NETHERLANDS
45. RESC 23 NORWAY
ARTICLE 30
46. RESC 30 ESTONIA

Appendix IV

List of deferred Conclusions (RESC + ESC)

COUNTRY	ARTICLES
ANDORRA	RESC Articles 3§1, 3§3, 11§1, 11§3, 12§3, 13§4, 30
ARMENIA	RESC Articles 13§2
AUSTRIA	RESC Articles 3§2, 3§3, 11§1, 12§3
AZERBAIJAN	RESC Article 11§2
BOSNIA-HERZEGOVINA	RESC Article 11§1
CROATIA	ESC Articles 11§1, 11§3, 14§2
CYPRUS	RESC Articles 3§2, 3§3, 11§1, 11§2, 12§3, 14§2
CZECH REPUBLIC	ESC Articles 3§2, 11§1, 11§2, 11§3, 12§4, 13§4
DENMARK	ESC Articles 3§2, 14§2
ESTONIA	RESC Articles 11§1, 11§3, 14§2
GEORGIA	RESC Articles 12§3, 14§2
HUNGARY	RESC Articles 11§2, 11§3, 14§2
LITHUANIA	RESC Articles 3§2, 3§4, 12§1, 12§4, 14§2
LUXEMBOURG	ESC Articles 3§1, 3§2, 11§3, 12§1, 12§3, 13§1, 13§4, 14§2
LATVIA	RESC Articles 3§1, 3§2, 3§4, 11§2, 11§3, 14§2
MOLDOVA	RESC Articles 3§1, 12§4
REPUBLIC OF NORTH MACEDONIA	RESC Articles 3§2, 11§1, 11§3, 12§3
MALTA	RESC Articles 11§1, 12§3, 12§4, 13§4, 14§2
MONTENEGRO	RESC Articles 11§1, 11§3, 12§3, 12§4, 14§2
THE NETHERLANDS	RESC Articles 3§2, 11§2, 11§3, 13§4
NORWAY	RESC Articles 3§3, 11§3
POLAND	ESC Articles 3§1, 3§2, 11§1, 11§2, 12§3
ROMANIA	RESC Articles 11§2, 12§3
RUSSIAN FEDERATION	RESC Articles 3§1, 3§2, 11§1, 12§1, 14§2
SERBIA	RESC Articles 3§1, 3§3, 11§1, 13§3
SLOVAK REPUBLIC	RESC Articles 3§1, 3§3, 11§2, 12§2, 12§3, 14§2
SPAIN	ESC Articles 3§1, 11§1, 11§3, 12§3
SLOVENIA	RESC Articles 3§2, 3§3, 11§3, 23
SWEDEN	RESC Article 3§2, 3§3, 11§2, 13§1
TÜRKIYE	RESC Articles 3§2, 11§2, 11§3, 12§1, 12§4
UNITED KINGDOM	ESC Articles 3§2, 11§3, 14§2
UKRAINE	RESC Articles 12§4, 14§1

Appendix V

Conclusions 2021: examples of progress in the application of the European Social Charter relating to “Health, social security and social protection”:

In its Conclusions 2021/XXII-2, the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or in some cases on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information). Below follows a selection of examples.

Article 3§2

Denmark

In 2019 the executive order on carcinogens and mutagens was amended to implement Directive (EU) 2017/2398 of the European Parliament and of the Council of 12 December 2017 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. A national provision regarding prohibition of recirculation on building sites of local exhaust air from work processes was amended to allow for recirculation as long as the air is effectively cleaned.

Poland

Between 2016 and 2019 the National Labour Inspection developed a programme “Prevention of harmful effects of stress and other psychosocial risks in the workplace”. The Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation was transposed into Polish law on 13 June 2019.

Spain

The Law on Data Protection and Guarantee of Digital Rights (No. 3/2018) acknowledged the right to disconnect.

Estonia

On 1 January 2019 amendments to the Occupational Health and Safety (OHS) Act came into force. One of the amendments to the Act is related to psychosocial hazards. The term “psychological hazards” was replaced with the term “psychosocial hazards”. The definition of the term is specified in greater detail in the Act, as are the measures to be applied for preventing damage to health caused by psychosocial hazards.

Hungary

The amendment to the Labour Safety Act, that came into force on 1 January 2008, introduced the employer’s obligation of dealing with psychosocial risk factors.

The Recommendations of the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) have been integrated into Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, which Hungary transposed into national law.

Lithuania

In order to help identify investigation process of the psychosocial risk factors to the changing working conditions and to simplify the provisions in order to help small and medium enterprises to investigate such risks Regulations on investigation of psychosocial occupational risks were changed by the order No. V-153/A1-77 of the Minister of Health and the Minister of Social Security and Labour of 5 February 2019. Also, on 1 May 2019 the Minister of Health adopted the order No. V-590 which relates to improving competencies of workers’ mental health and which is directed towards reducing the impact of stress at work to the workers’ health.

Montenegro

Domestic workers are now protected by occupational safety and health regulations.

Article 3§3

Estonia

The Labour Inspectorate have been developing a new information system, which increases the efficiency of inspections, allows for automated supervision and saves time. The new system, operational since the first quarter of 2020 allows Labour Inspectorate to cover more companies and workers with the inspections and helps Labour Inspectorate to communicate with companies faster and more effectively.

Sweden

The Government has allocated increasing resources to the work environment area. A total of 100 million SEK (9.7 million €) per year was invested in 2015-2018. During the same period the Government increased the SWEA (Swedish Work Environment Authority)'s allocation with approximately 110 million SEK (10.7 million €) including to enable hiring more inspectors. Following the appropriation increase the SWEA has employed more than 150 new inspectors and the number of inspections has consequently increased.

Türkiye

The "Occupational Exposure Data Package" software, prepared in 2017, aims at ensuring early detection of occupational exposures and increase occupational disease awareness.

Article 11§1

Montenegro

A real-time e-Referral and e-Prescription system was implemented radically reducing waiting times.

Norway

In July 2016, a Gender Recognition Act was adopted which allows one to change legal gender (male/female) without the previously required sterilisation.

Poland

Waiting times for a number of medical services decreased significantly compared to the previous reference period.

Article 11§2

Czech Republic

Since 2019, the Ministry of Health has been implementing the project "Expanding Access and Creating Healthcare Opportunities for the Homeless" (abbreviated as "Doctor's Office for the Homeless") aimed at people living on the streets who are at risk of losing their refuge or living in socially excluded communities. Its main purpose is to provide medical assistance to target groups who do not seek medical and social care and who do not participate in preventive check-ups and programmes.

Lithuania

In Lithuania, as regards health education in schools, schools implement the general Programme for Health and Sexuality Education and Preparation for Family Life (PHSEPFL), approved by Order No. V-941 of the Minister of Education and Science of 25 October 2016, in order to develop, *inter alia*, healthy lifestyle skills and activities of health promotion and prevention of harmful habits. The Programme covers a wide range of topics, such as self-awareness, gender identity, bullying, the social-emotional state of a child, sexual development (SOGI, responsible sexual behaviour, sexual diversity, discrimination, exclusion), etc.

Austria

Two legal acts concerning diverse sexualities and gender identities in the classroom were adopted: the "Reflexive Gender Pedagogy and Equality Act" of 2018 (Circular No. 21/2018) and "Sexuality Education Act" of 2015 (Circular No. 13/2015). The latter establishes the basis and content of sex education, highlighting a positive approach to human sexuality. It also addresses homophobia and transphobia and encourages schools to adopt a universal pedagogical stance that should be geared towards the principle of gender equality and the diversity of lifestyles. The former addresses, among

other things, the issue of gender-based violence in all its facets (e.g., sexual harassment, homophobia, gender-related innuendos, gender-related stereotypes, honour-based violence).

Luxembourg

The first National Action Plan for the promotion of LGBTI rights was adopted on 13 July 2018. This multi-year plan sets out a comprehensive approach in the field. It includes eight thematic chapters covering different spheres of life, including education, employment and work, health, family, reception and integration, discrimination, hate crimes and hate speech, transgender equality and intersex equality. The plan consists of numerous awareness-raising and training activities on the issues of sexual orientation, gender identity and gender variations. These measures are aimed at the general public and specific groups (e.g., children, young people and health professionals).

Article 11§3

Montenegro

In 2019, Montenegro adopted the Law on the restriction of the use of tobacco products, which provides, among other measures, for a ban on smoking at work and in public places, with fines for non-compliance ranging from €500 to €20,000.

Article 12§3

Lithuania

A reform was initiated at the beginning of 2017 to modernise the social security system. This reform aims, among other goals, to integrate self-employed persons into the state social security system and include the different groups of platform workers (such as persons working in the bicycle delivery service sector) in the "self-employed persons" category in order to expand their social security coverage and improve their social insurance benefits.

Montenegro

The Law on mediation for job placement and rights during unemployment came into force on 30 April 2019. This law reduced the length of insurance contributions required to be entitled to unemployment benefits. In addition, the amount of unemployment benefits was increased and the duration of benefit payments was extended for some categories of jobseekers.

The adjustment of retirement and disability pensions, which had been suspended throughout the previous reference period (2012-2015) due to poor economic conditions, resumed in 2016.

Poland

The minimum retirement pension was increased in 2016 and 2018, and the adjustment mechanism was modified. As a result of these changes, the minimum retirement pension has increased by 25% since 2016.

Implementation of the Retirement Pension+ programme began in 2019. This programme provides for the payment of a one-off supplementary benefit to any person in receipt of a retirement or other pension, regardless of its amount. In 2019, 9.74 million people received this benefit (including 6.7 million retired persons, 2.62 million pensioners and 282,000 persons in receipt of social assistance pensions).

Ukraine

Ukraine accepted Article 12§3 of the Charter in 2017.

Article 13§3

North Macedonia

The services provided in social action centres are free of charge for beneficiaries.

Romania

According to Article 113 of the Social Assistance Law, all local public administration authorities are required to set up specialised structures called public social assistance services (PSAS) in urban and in rural areas.

Article 23

The Czech Republic

Legislation prohibiting discrimination on grounds of age outside of employment was adopted since the last examination on the situation by the ECSR.

The Slovak Republic

Priority has been given to developing community-based care as an alternative to institutional care.

Sweden

Legislation prohibiting discrimination on grounds of age outside of employment was adopted since the last examination on the situation by the ECSR.

Article 30

The Netherlands

Two specific measures were launched during the reference period: the Comprehensive Approach to Tackling Debt (*Brede Schuldenaanpak*) and Child Poverty Ambitions (*Ambities Kinderarmoede*).

As regards the former initiative, since 2018, the government, in cooperation with municipalities, implementing organisations and civil society organisations, have been working on rolling out the Action Plan, which includes more than 40 measures to tackle debt problems.

As regards the latter initiative, in 2019, four objectives were set to further reduce child poverty: (1) every child growing up in a low-income family is eligible for social assistance; (2) the number of low-income households with children is to be reduced over the next few years; (3) there will be regular reviews of social exclusion among children; and (4) good practices and initiatives are to be identified by municipalities and other local and national organisations, aimed in order to prevent child poverty and its adverse effects on children.

Norway

As regards children and young people in low-income families, the Government's strategy, "Children Living in Poverty" for the 2015-2017 period, was followed by a new cooperation strategy, "Equal Opportunities for Children" for the 2020-2023 period. The new strategy emphasises the importance of increasing the participation of children and young people from low-income families with other children and young people allowing them to develop on an equal footing, with a view to stimulating social mobility and breaking the generational cycle of poverty and low incomes.

Slovak Republic

The National Framework Strategy for the Promotion of Social Inclusion and the Fight against Poverty is the main strategic document in this area. It systematises approaches to tackling poverty and social exclusion. The first National Framework Strategy was prepared and approved by the government in 2015. It reflected the situation in the fight against poverty and social exclusion. In 2017, the Strategy was updated to include some additional key areas for the implementation of social inclusion and anti-poverty measures, such as supporting the integration of the long-term unemployed, promoting youth employment, supporting increased targeting in the social benefit system, supporting the integration of marginalised Roma communities, etc.

Slovenia

As of 1 January 2019, all family-related austerity measures were abolished (after six years): the paternity and parental allowance are back to 100% of the person's average salary for the last 12 months (previously it was 90%); the large family allowance is once again a universal entitlement and

can be granted to all large families regardless of their income (previously it was limited to a certain income threshold); the maternity allowance is not limited and the parental allowance is 2.5 times the average salary (previously it was twice the average wage). As of 1 July 2019, child benefits, state scholarships, childcare allowance, large family allowance, birth allowance and parental allowance were increased.

Sweden

The Swedish Government made significant investments in health care and education. Since 2017, the Government has strengthened basic protection and reduced income tax for pensioners, increased the level of unemployment insurance benefits and increased housing, maintenance and children's allowances.

Appendix VI

Recommendations

TABLE OF RECOMMENDATIONS ADOPTED IN 2022										
ARTICLES										
STATES	GEN	3.2	3.3	3.4	11.1	11.3	13.1	14.1	23/4A P	Recommendations
AZERBAIJAN					1	1				2
BOSNIA- HERZEGOVINA							1			1
CZECH REPUBLIC							1			1
DENMARK									1	1
HUNGARY								1		1
MOLDOVA					1	1				2
THE NETHERLANDS									1	1
ROMANIA		1								1
TURKIYE			1	1						2
TOTAL		1	1	1	2	2	2	1	2	12
FAILURE TO REPORT	1									
REPEATED NON- ESTABLISHED	1									
TOTAL	2									14