



March 2020

EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2019

ICELAND

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.¹

The 1961 European Social Charter was ratified by Iceland on 15 January 1976. The time limit for submitting the 32nd report on the application of this treaty to the Council of Europe was 31 October 2018 and Iceland submitted it on 18 June 2019.

This report concerned the following “non-hard core” provisions of the Charter:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19).

Iceland has accepted all of these articles, with the exception of Articles 7, 8 and 19.

The reference period was 1 January 2014 – 31 December 2017.

The present chapter on Iceland concerns 2 situations and contains:

– 2 conclusions of conformity: Articles 16 and 17.

The next report from Iceland deals with the accepted provisions of the following articles belonging to the thematic group “Employment, training and equal opportunities”:

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to education, training and employment (Article 15);
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18);
- the right of men and women to equal opportunities (Article 1 of the Additional Protocol).

The deadline for the report was 31 December 2019.

¹ The conclusions as well as state reports can be consulted on the Council of Europe’s Internet site (www.coe.int/socialcharter).

Article 16 - Right of the family to social, legal and economic protection

The Committee takes note of the information contained in the report submitted by Iceland .

Legal protection of families

Rights and obligations, dispute settlement

The report indicates that during the reference period there have been no major changes to the situation which the Committee previously considered to be in conformity with Article 16 of the 1961 Charter as regards **rights and obligations of spouses** (equality of rights within the couple in particular in respect of issues linked to ownership, administration and use of property, etc. and to children), **settlement of disputes** and **mediation services** (see Conclusions XX-4 (2015), XIX-4 (2011) and earlier ones). The Committee asks the next report to provide updated information on these issues.

Issues related to **restrictions to parental rights and placement of children** are examined under Article 17.

Domestic violence against women

Iceland has signed and ratified the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence (which came into force in Iceland on the 1st August 2018). The assessment under this instrument has not taken place yet.

The Committee takes note of the information presented in the report concerning the developments occurred since its latest assessment (see Conclusions XX-4 (2015)), in particular as regards the information provided on protection of victims of domestic violence. In this respect, the report provides detailed data on the number of victims seeking assistance during the reference period, indicating a slight rise in the number of women and accompanying minor children admitted to the Women's Refuge (100 women and 84 children in 2014, 148 women and 103 children in 2017), a more substantial rise in the number of individuals addressing the Centre for Sexual Abuse Victims for advice and support (617 in 2014 against 969 in 2017, including 82% women) and the opening in 2017 of an additional centre for the victims of violence which offers consultation sessions for victims of violence and counselling from social workers, the police and lawyers, free of charge; 316 victims of violence, mainly women (89%), applied to this centre in 2017. The Emergency Reception Unit for Victims of Sexual Abuse, which is in operation in the Casualty Department of two hospitals, provided assistance to 123 victims in 2014, 133 in 2015, 169 in 2016 and 187 in 2017. The services of nurses, doctors and psychologists are available at these units, and a team of lawyers also provides legal advice to victims and assists them in their dealings with the police and the courts. According to the report, the number of cases in which the emergency unit has been involved and where a complaint has been lodged with the police went from 56 in 2014 to 75 in 2017. The Committee notes however that this represents a decrease in the percentage of cases leading to a complaint (from 45.5% to 40.1%).

As regards prevention, the report refers to a project providing therapy sessions to perpetrators of domestic violence (see details in the report).

The report does not provide information on the implementation of integrated policies involving all levels of government and all relevant agencies and institutions, nor on the prosecution of domestic violence against women. In this respect, the Committee notes the concerns expressed by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in its Concluding Observations 2016 about the high number of discontinuances in criminal proceedings on charges of violence against women, in particular rape and sexual violence, by the State Prosecutor and the low number of convictions; the lack of a legal analysis of the high number of acquittals in sexual violence cases; the absence of a national action plan against sexual and domestic violence that would take into

account the specific needs and vulnerabilities of migrant women and women with disabilities; the absence of legislation specifically criminalizing psychological violence and online harassment and stalking.

The Committee asks the next report to provide comprehensive and updated information on all aspects of domestic violence against women and related convictions, as well as on the use of protection orders, the implementation of the existing measures and those under way and their impact on reducing domestic violence against women, also in the light of the abovementioned CEDAW recommendations.

Social and economic protection of families

Family counselling services

The Committee refers to its previous conclusion (Conclusions XX-4 (2015)), in which it found the situation to be in conformity with the 1961 Charter.

Childcare facilities

The Committee refers to its previous conclusions (Conclusions XIX-4 (2011) and XX-4(2015)) for an overall description of childcare facilities in Iceland under the Preschools Act No. 90/2008, as amended, and Regulation No. 655/2009 on the Preschool Working Environment. It takes note of the additional information provided about the competences and obligations of local authorities in this field and notes in particular that municipal council must assess the need for childcare service facilities at least every two years. The Committee also takes note of the information provided about day-care in private homes (see details in the report).

The report indicates that, during the reference period, there was a slight increase in the proportion of children aged 0-5 in preschools, from 71.52% in 2014 (19 938 children out of 27 879) to 73.04% in 2017 (19 013 children out of 26 031). The Committee asks the next report to provide updated information on this issue.

Family benefits

Equal access to family benefits

The report indicates that child benefit is paid to persons who support children younger than 18 at the end of an income year, and who have unlimited tax liability in Iceland, i.e. they are residing/living in Iceland and stay in Iceland for more than a total of 183 days in every twelve-month period. The Committee previously noted that single-parent allowance, like all social assistance benefits is conditional on the applicant being domiciled in Iceland (see Conclusions XX-4(2015)) for details).

Level of family benefits

Family benefits comprise child benefit, payments during maternity/paternity leave (under Act No. 95/2000) and single-parent allowances. The report also provides information on the personal tax credit during the reference period (in 2017, ISK 634 884, i.e. around € 5086), the tax-free income ceiling and income tax-rate (see details in the report). Child benefit was partly linked to income during the reference period and determined according to tax returns. Its amount varied depending on whether the custodial parent was single or not. In 2017, for the income year 2016, the maximum child benefit for single parents was ISK 342 939 (€2747) for the first child and ISK 351 787 (€2818) for each child after the first (in 2016, these amounts were respectively ISK 332 950 and ISK 341 541, i.e. €2 667 and €2 736). Maximum child benefit for couples was ISK 205 834 (€1649) for the first child and ISK 245 087 (€1964) for each child after the first (in 2016, these amounts were respectively ISK 199

839 and ISK 237 949, i.e. €1 601 and €1 906). Child benefit payments to married couples were reduced if their annual income exceeded ISK 5 400 000 (€43 263); the corresponding reference amount for a single parent was ISK 2 700 000 (€21 631). The reduction was 4% for one child, 6% for two children and 8% for three or more children. Furthermore, all parents received ISK 122 879 (€984) per year for children younger than seven years of age, irrespective of income (in 2016, the amount was ISK 119 300, i.e. €956).

The Committee considers that, in order to comply with Article 16, child benefits must constitute a significant income supplement, which is the case when they represent an adequate percentage of median equivalised income. The Committee notes that in 2017 and 2016, child benefits amounted to at least 6.25% of the aforementioned income. Taking into account that child benefits increased during the reference period and that other family benefits are available (maternity/paternity benefits, single-parent allowances, etc.), the Committee considers that the situation remains in conformity with the 1961 Charter on this point.

Measures in favour of vulnerable families

The Committee notes that there have been no changes to the situation which it previously considered to be in conformity with the 1961 Charter (Conclusions XIX-4(2011) and XX-4(2015)).

Housing for families

The Committee refers to its previous conclusion (Conclusions XX-4 (2015)) for a description of the framework for the protection of the right to adequate housing, including social housing, housing subsidies, housing allowances and eviction procedures.

The current report provides information on the different types of housing support during the reference period, including figures on the number of households that benefitted from them and the number of social housing units (municipal rental apartments) for each year. The Housing Benefit Act No. 75/2016 replaced the earlier Rent Benefit Act. Under this new legislation, the administration of financial support to tenants (previously termed “rent benefit”, now termed “housing benefit”) was transferred from the municipalities to the State. The main change is that the basic amount of housing benefit rises according to the number of persons in the household, irrespective of their age. Thus, housing support is not bound by the type of family and has been made more equal than it used to be. Housing benefit can, at its maximum level, amount to 75% of the rent, while maximum rent benefit in the old system could reach only 50% of the rent. Monthly basic housing benefits during 2017 amounted to ISK 31 000 for a home unit with one person, ISK 41 000 for a home unit with two persons, ISK 48 000 for a home unit with three persons, and ISK 52 000 for a home unit with four persons or more. On the other hand, municipalities are now obliged to offer additional special housing support to tenants if certain conditions which each municipality sets are met (tenants living under very difficult social and financial conditions). Prior to the new system, they were permitted, but not obliged, to offer these special rent benefits.

The report further explains that under Act No. 35/2014 on the Adjustment of Index-Linked Mortgages, individuals could apply for an adjustment of mortgages during the period 18 May-1 September 2014. This was part of a package of actions taken by the government to reduce the principal of mortgages following the economic collapse of several years earlier.

The Public Rental Dwellings Act No. 52/2016 authorises the State and municipalities to make capital contributions for the construction and purchase of public rental dwellings so as to increase the offer of affordable rental dwellings for those in need, including low-income families, students, young people, elderly people and disabled people. By the end of 2017, a total of ISK 4.6 billion had been disbursed in the form of foundation capital contributions for the construction and purchase of about 900 dwellings.

The Committee notes from the report that an amendment was made to the Rent Act in 2016. The main aim of the amendment was to put tenants in a stronger legal position and introduce more stability in dealings between tenants and landlords. Rulings by the Housing Complaints Committee in cases involving the making and application of lease agreements were made binding on the parties to a case; under the earlier legislation, the committee stated non-binding opinions only.

The Committee takes note of all the legislative developments which have taken place during the reference period as well as of the figures provided in the report on the availability and the different modalities of housing support. It asks for information in the next report on the type of cases concerning the right to adequate housing which might be brought before the courts and to provide examples of any existing case-law in this field.

Finally, the Committee refers to its Statement of Interpretation on the right of refugees under the Charter (Conclusions XX-4 (2015)). It asks the next report to indicate which measures are taken to ensure adequate housing for refugee families.

Participation of associations representing families

The Committee refers to its previous conclusion (Conclusions XX-4 (2015)), in which it found the situation to be in conformity with the 1961 Charter. It noted in particular that a working committee had been appointed in 2013 to formulate a family policy to 2020, as well as a consultation group of representatives from over thirty associations and public bodies. It asks the next report to provide updated information on this point.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Iceland is in conformity with Article 16 of the 1961 Charter.

Article 17 - Right of mothers and children to social and economic protection

The Committee takes note of the information contained in the report submitted by Iceland.

The legal status of the child

The Committee previously asked the next report to provide updated information regarding the right of a child to know in principle, his or her origins, the minimum age for marriage, and whether there was discrimination of children born outside of marriage e.g. in respect of maintenance obligations and inheritance rights (Conclusions, XX-4 (2015)).

The report states that the UN Convention on the Rights of the Child has been ratified by Iceland and has direct effect in Icelandic law.

Under Article 1 a of the Children Act, No. 76/2003, children have the right to know both their parents. Mothers are also placed under an obligation to name children with a patronymic showing the name of their fathers unless the rules on paternity in Article 2 of the Act apply. Articles 2 – 7 set out the rules regarding paternity and the determination of children's parentage in cases of assisted reproductive technology.

Section V of the Adoption Act, No. 130/1999, states that adoptive parents have the duty to inform the child that it is adopted as soon as it has sufficient maturity. Generally, this is to be done before the child reaches the age of six. The Act also states that when adopted children reach the age of 18, they are entitled to obtain certain information concerning the identity of their natural parents, or previous adoptive parents.

The minimum age for marriage in Iceland is 18. However legislation provides for exemptions from this minimum age requirement, according to which the Ministry of Justice may grant younger persons marriage licences providing that the position of their custodial parents regarding the marriage is known. Licences have been issued, mostly to individuals aged 17, though there are also examples of 16-year-olds receiving such licences.

Article 1 of the Children Act, No. 76/2003, states that children are entitled to live, develop and receive protection, care and enjoy other rights in accordance with their age and maturity, and to be free of all forms of discrimination.

The Committee has noted with concern the increasing number of children in Europe registered as stateless, as this will have a serious impact on those children's access to basic rights and services such as education and healthcare.

According to EUROSTAT in 2015 there were 6,395 first time asylum applications in the EU by children recorded as stateless and 7,620 by children with an unknown nationality. This figure only concerns EU states and does not include children born stateless in Europe, nor those who have not applied for asylum. In 2015, UNHCR estimated the total number of stateless persons in Europe at 592,151 individuals.

The Committee asks what measures have been taken by the State to reduce statelessness (such as ensuring that every stateless migrant child is identified, simplifying procedures for obtaining nationality, and taking measures to identify children unregistered at birth).

The Committee asks further what measures have been taken to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular situation.

Protection from ill-treatment and abuse

The Committee recalls that it previously found the situation to be in conformity with the Charter. The Committee notes that there has been no change to the situation, all forms of corporal punishment are prohibited in all settings (Conclusions, XX-4 (2015)). The Committee notes the information in the report on measures taken to eliminate all forms of violence against children.

Rights of children in public care

The Committee previously examined the situation of children in public care, including the grounds and procedure for the restriction of parental rights. The Committee recalls that the Child Protection Act states that the main criterion for the intervention of the child protection authorities is that the physical and mental health of a child is at risk.

The Committee recalls from Conclusions, XX-4 (2015) that according to Article 80 of the Child Protection Act, before a child is placed in a home or an institution, the child protection committee shall attempt other supportive measures aimed at keeping the child in his family.

According to the report in 2017 there were 420 children in foster care. The report also provides data on children in other types of out of home placements which indicate that most children are placed in foster care. The Committee asks to be kept informed of trends in the field.

Children in conflict with the law

The Committee recalls that the age of criminal responsibility is 15 years in Iceland

The Committee previously noted that when children are detained in prisons, even if exceptionally, they may be detained with adult prisoners. The Committee asked whether this understanding was correct and if so, asked the next report to provide information about such cases, including their number and the reasons for placing minors with adults (Conclusions XX-4, 2015).

According to the report the Execution of Sentences Act, No. 15/2016, which entered into force on 31 March 2016 provides that children under the age of 18 sentenced to detention are to serve their sentences under the supervision of the child protection authorities. Article 44 of the act states: "Prisoners under the age of 18 shall serve their sentences under the supervision of the child protection authorities. A prisoner under the age of 18 may not be held in prison unless, in the opinion of experts, this is in his or her best interests with reference to particular circumstances applying to him or her and is in accordance with the UN Convention on the Rights of the Child."

In accordance with this, no children were serving sentences in prison in the period 2014-2017. On the other hand, six children were in pre-trial detention, five for sexual offences and one for a drug offence.

The Committee seeks confirmation that children in pre-trial detention are always separated from adults.

The Committee asks for updated information on the maximum duration of any period of detention. for children.

The Committee also asks if children may be placed in solitary confinement and if so under what circumstances and for how long.

Right to assistance

Article 17 guarantees the right of children, including children in an irregular situation and non-accompanied minors to care and assistance, including medical assistance and appropriate accommodation [International Federation of Human Rights Leagues (FIDH) v. France, Complaint No 14/2003, Decision on the merits of September 2004, § 36, Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, Decision on the merits of 20 October 2009, §§70-71, European Federation of National Organisations working with the Homeless (FEANTSA) v, Netherlands, Complaint No.86/2012, Decision on the merits of 2 July 2014, §50].

The Committee considers that that the detention of children on the basis of their or their parents' immigration status is contrary to the best interests of the child. Likewise

unaccompanied minors should not be deprived of their liberty and detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status or lack thereof.

The Committee notes the information provided on the child protection system and asks how this applies to children in an irregular situation.

The Committee requests information on accommodation facilities for migrant children whether accompanied and unaccompanied, including measures taken to ensure that children are accommodated in appropriate settings and have access to healthcare. It also requests further information on the assistance given to unaccompanied children, in particular to protect them from exploitation and abuse. Lastly it requests information as to whether children who are irregularly present in the State accompanied by their parents or not, may be detained and if so under what circumstances.

As regards age assessments, the Committee recalls that, in line with other human rights bodies, it has found that the use of bone testing in order to assess the age of unaccompanied children is inappropriate and unreliable [European Committee for Home Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, Decision on the merits of 24 January 2018, §113]. The Committee asks whether Iceland uses bone testing to assess age and, if so, in what situations the state does so. Should the State use such testing, the Committee asks what are the potential consequences of such testing (e.g., can the results of such a test serve as the sole basis for children being excluded from the child protection system?).

Child poverty

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of State Parties efforts to ensure the right of children and young persons to social, legal and economic protection. The obligation of states to take all appropriate and necessary measures to ensure that children and young persons have the assistance they need is strongly linked to measures directed towards the amelioration and eradication of child poverty and social exclusion. Therefore, the Committee will take child poverty levels into account when considering the State Parties obligations in terms of Article 17 of the Charter.

The Committee notes from the report that following the financial collapse of 2008 a multi-disciplinary independent consultative body Welfare Watch was created to deliberate on diverse social aspects of the potential impact of the economic collapse. Welfare Watch's role was initially to monitor both the social and economic consequences of the financial collapse for families and households in Iceland, to assess the success of the measures taken and to make proposals for remedial measures or improvements. In 2014 Welfare Watch was renewed and mandated to examine the welfare of low-income families with children, in particular those of single parents, and their children.

In January 2015 the Ministry of Welfare published a report by Welfare Watch "Proposals on measures to eliminate child poverty. The report included proposals to simplify the child benefit system, to define baseline levels of minimum support and to ensure that lower-income families should spend well under 40% of their disposable income on housing costs.

The Committee notes from EUROSTAT data that in 2016 14.4% of children were at risk of poverty or social exclusion, below the EU average of 24.9% and one of the lowest in Europe.

Nevertheless the Committee asks the next report to provide information on rates of child poverty as well as on measures adopted to reduce child poverty; including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc. Information should also be provided on measures focused on combatting discrimination against and promoting equal opportunities for, children from

particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.

States should also make clear the extent to which child participation is ensured in work directed towards combatting child poverty.

Conclusion

The Committee concludes that the situation in Iceland is in conformity with Article 17 of the 1961 Charter.