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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2019

LITHUANIA

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 European Social Charter (revised) was ratified by Lithuania on 29 June 2001. The time limit for submitting the 16th report on the application of this treaty to the Council of Europe was 31 October 2018 and Lithuania submitted it on 8 November 2018.

This report concerned the accepted provisions of the following articles belonging to the thematic group "Children, families and migrants":

- 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),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

Lithuania has accepted all provisions from the above-mentioned group except Articles 19§2, 19§4, 19§6, 19§8, 19§12 and 31§3.

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

The present chapter on Lithuania concerns 30 situations and contains:

- 19 conclusions of conformity: Articles 7§2, 7§4, 7§6, 7§7, 7§8, 7§9, 8§1, 8§2, 8§3, 8§4, 8§5, 19§3, 19§5, 19§7, 19§9, 19§11, 27§1, 27§2 and 27§3;
- 5 conclusions of non-conformity: Articles 7§1, 7§3, 17§1, 31§1 and 31§2.

In respect of the other 6 situations concerning Articles 7§5, 7§10, 16, 17§2, 19§1, 19§10, the Committee needs further information in order to assess the situation.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Lithuania under the Revised Charter. The Government consequently has an obligation to provide this information in the next report from Lithuania on the articles in question.

The next report from Lithuania 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 independence, social integration and participation in the life of the community (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 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

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 7 - Right of children and young persons to protection
Paragraph 1 - Prohibition of employment under the age of 15

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

In its previous conclusion (Conclusions 2015), the Committee concluded that the situation in Lithuania was not in conformity with Article 7§1 of the Charter on the ground that during school holidays the daily and weekly working time for children under 15 years of age is excessive and therefore such work cannot be qualified as light work.

The current report indicates that the Law on Safety and Health at Work was amended in September 2016 and the amendments came into force on the 1st of July 2017. According to the report, Article 36 (1) of the Law prohibits work performed by children under 16 years of age, except for children aged 14 to 16 years, who are allowed to perform light work, which suits their physical capabilities and does not harm their safety, health, physical, mental, moral or social development, and is in compliance with the conditions of employment laid down by the Government.

Concerning the duration of such work, according to the amended Article 36 (3) of the Law, children performing light work during time of the school year are allowed to work up to 12 hours per week: up to 2 hours per day on days of school attendance – not when there are lessons at school – and up to 6 hours per day on non-school days. Child work is prohibited from 8 p.m. to 6 a.m., and in the morning from 6 a.m. to 7 a.m. before the lessons.

As regards working time outside the school term, according to the amended Article 36 (3) of the Law, children working for at least one week are allowed to work up to 6 hours per day and 30 hours per week.

The Committee refers to its Statement of Interpretation on permitted duration of light work and recalls that children under the age of 15 and those who are subject to compulsory schooling are entitled to perform only “light” work. Work considered to be “light” in nature ceases to be so if it is performed for an excessive duration (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §§29-31). States are therefore required to set out the conditions for the performance of “light work” and the maximum permitted duration of such work. As to the length of light work during term time, the Committee considered that a situation in which children who were still subject to compulsory schooling carried out light work for two hours on a school day and 12 hours a week in term time outside the hours fixed for school attendance was in conformity with the requirements of Article 7 of the Charter (Conclusions 2011, Portugal). Regarding working time during school holidays, the Committee considered that children under the age of 15 and those who are subject to compulsory schooling should not perform light work during school holidays for more than 6 hours per day and 30 hours per week in order to avoid any risks that the performance of such work might have for their health, moral welfare, development or education (Conclusions 2015).

Concerning working time during school holidays, given that under the amended Law on Safety and Health at Work, children aged 14 to 16 years are allowed to perform light work up to 6 hours per day and 30 hours per week outside the school term, the Committee concludes that the situation in Lithuania is in conformity with Article 7§1 of the Charter on this point.

However, concerning working time during school term, given that under the amended Law on Safety and Health at Work, children aged 14 to 16 years are allowed to perform light work up to 12 hours per week during time of the school year – up to 2 hours per day on days of school attendance and up to 6 hours per day on non-school days, the Committee concludes that the situation in Lithuania is not in conformity with Article 7§1 of the Charter on the ground that, during the school term, the daily duration of working time on non-school days is excessive and therefore the work cannot be qualified as light.

In its previous conclusion (Conclusions 2015), the Committee asked for information on the monitoring activities and findings of the State Labour Inspectorate in relation to illegal employment of children under the age of 15.

In this respect, the current report indicates that from the year 2014 to the year 2017 the State Labour Inspectorate (SLI) found 77 cases of children up to 18 years of age working illegally in the wholesale, constructions, agriculture, manufacture, accommodation, art, entertainment and board services sectors and in administration, leisure organising and servicing activities. In addition, the report points out that during the reference period, the National Labour Inspectorate found two administrative offences committed by employers concerning the benefits and guarantees offered to young people.

The Committee asks the next report to provide up-to-date information concerning the monitoring activities and findings of the State Labour Inspectorate in relation to illegal employment of children under the age of 15. In particular, it asks the next report to indicate what are the measures taken and the sanctions imposed on the employer in cases of violations concerning the illegal employment of children under the age of 15. The Committee also asks the next report to indicate the conditions under which work done at home by children is monitored in practice.

The Committee refers to its General question on Article 7§1 in the General Introduction.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 7§1 of the Charter on the ground that, during the school term, the daily duration of working time on non-school days is excessive and therefore the work cannot be qualified as light.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

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

The Committee notes from the information provided in the report submitted by Lithuania that there have been no significant changes to the legislation which it has previously found to be in conformity with Article 7§2 of the Charter.

The Committee previously noted that Article 277 of the Labour Code and Section 59 of the Safety and Health of Workers Act prohibit the employment of persons under 18 years of age in work that is beyond their physical and psychological capacity or poses a risk to their health (Conclusions 2006). It further noted that that the Government Resolution 139 of 29 January 2003 on the protection of young people at work prohibits the employment of young persons in vocational training on work that is beyond their physical or psychological capacity, or that exposes them to radiation, dangerous toxic substances or the risk of accidents (Conclusions 2006).

In its previous conclusion (Conclusions 2015), the Committee recalled that the situation in practice should be regularly monitored and asked information on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding prohibition of employment under the age of 18 for dangerous or unhealthy activities. The current report does not provide any information in this respect. The Committee therefore reiterates its question.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 7§2 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 3 - Prohibition of employment of children subject to compulsory education

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

In its previous conclusion (Conclusions 2015), the Committee concluded that the situation in Lithuania was not in conformity with Article 7§3 of the Charter on the ground that during school holidays the daily and weekly working time for children subject to compulsory education is excessive and therefore cannot be qualified as light work.

The Committee refers to its conclusion on Article 7§1 where it noted that the current report indicates that the Law on Safety and Health at Work was amended on September 2016, with the amendments coming into force on the 1st of July 2017. According to the amended Article 36 (3) of the Law, children performing light work during time of the school year are allowed to perform work up to 12 hours per week: up to 2 hours per day on days of school attendance – not when there are lessons at school – and up to 6 hours per day on non-school days. As regards working time outside the school term, according to the amended Article 36 (3) of the Law children working for at least one week are allowed to work up to 6 hours per day and 30 hours per week.

The Committee refers to its Statement of interpretation mentioned on Article 7§1 and concludes that the situation in Lithuania is in conformity with Article 7§3 of the Charter with respect to the daily and weekly duration of light work during school holidays. However, concerning working time during school term, given that under the amended Law on Safety and Health at Work children aged from 14 to 16 years old are allowed to perform light work up to 12 hours per week during time of the school year – up to 2 hours per day on days of school attendance and up to 6 hours per day on non-school days, the Committee concludes that the situation in Lithuania is not in conformity with Article 7§3 of the Charter on the ground that, during the school term, the daily duration of working time on non-school days is excessive and therefore the work cannot be qualified as light.

In its previous conclusion, the Committee noted that the Government Resolution No. 138 of 29 January 2003 had been amended in the sense that from 1 May 2014 children under the age of 16 shall be granted 14 consecutive calendar days of rest during summer school holidays. The committee asked information on how this new rule is implemented in practice and the supervision exercised by the Labour Inspectorate in this sense. The Committee notes that the current report does not provide any information in this respect. The Committee therefore reiterates its previous question. Meanwhile, it reserves its position on this point.

In its previous conclusion, the Committee also asked the next report to provide information on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding prohibition of employment of children subject to compulsory education. The current report does not provide any information in this respect. The Committee recalls that the situation in practice should be regularly monitored and reiterates its question. Meanwhile, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 7§3 of the Charter on the ground that, during the school term, the daily duration of working time on non-school days is excessive and therefore the work cannot be qualified as light.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Working time

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

The Committee notes from the information provided in the report submitted by Lithuania that there have been no changes to the situation which it has previously found to be in conformity with Article 7§4 of the Charter (Conclusions 2015).

The Committee recalls that according to Article 36 (5) of the Law on Safety and Health at Work, young persons aged from 16 to 18 years old are allowed to work up to 8 hours per day and 40 hours per week. The same working time is established for young persons working under an apprenticeship contract.

In its previous conclusion (Conclusions 2015), the Committee asked information on the monitoring activities and findings of the State Labour Inspectorate in relation to working time for young persons under 18.

The current report indicates that during the period 2014-2017 the State Labour Inspectorate found 18 violations concerning work and rest time of young persons aged from 16 to 17 years old.

The Committee asks the next report to provide up-to-date information concerning the monitoring activities and findings of the State Labour Inspectorate in relation to working time for young persons under 18. In particular, the Committee asks information on measures taken and sanctions imposed by the State Labour Inspectorate in relation to violations concerning work and rest time of young persons aged from 16 to 17 years old.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 7§4 of the Charter.

Article 7 - Right of children and young persons to protection
Paragraph 5 - Fair pay

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

Young workers

The Committee noted previously that young employees are entitled to the same wages as adults (Conclusions 2004). In its previous conclusion, the Committee considered that the situation regarding the wages paid to young workers was in conformity with the Charter, as in 2013 the net monthly minimum wage amounted to 47.7% of the net average monthly wage, so very close to the 48% threshold required (Conclusions 2015).

Under Article 7§5 of the Charter, wages paid to young workers between 16 and 18 years of age can be reduced by as much as 20% compared to a fair adults' starting or minimum wage. Therefore, if young workers were paid 80% of a minimum wage in line with the Article 4§1 fairness threshold (60% of the net average wage), the situation would be in conformity with Article 7§5 (Conclusions XVII-2 (2005), Spain). In the present case, as the young workers' wage is at the same level as the adult workers' wage, the Committee examines whether the net minimum wage of young workers represents 80% of the minimum threshold required for adult workers (60% of the net average wage). This is at least a 48% of the net average monthly wage.

The report indicates the values of the net minimum monthly wage and net average monthly wage for each year of the reference period. The Committee notes that for example in 2015 the net monthly minimum wage amounted to 237.5 €, this is a 43.9% of the net average monthly wage; in 2016 the net monthly minimum wage amounted to 47.4% of the net average monthly wage. However, in 2017, the net monthly minimum wage amounted to 45.2% of the net average monthly wage, which shows a decrease. The Committee considers nevertheless that the amount paid to young workers is still close to the threshold required by the Charter, and therefore the situation in Lithuania is in conformity with the Charter as regards the wages paid to young workers. Should the percentage decrease further in the next reference period, it may be assessed as not in conformity. The Committee therefore asks to provide information in the next report to show that the net monthly wage is sufficient to provide a decent standard of living.

The report further indicates that during the reference period, the State Labour Inspectorate did not identify any violations concerning the payment of minimum wages to minors. The Committee recalls that the situation in practice should be regularly monitored and asks the next report to provide information on the monitoring activities and findings of the State Labour Inspectorate in relation to wages paid to young workers.

Apprentices

Concerning the apprentices, the Committee noted previously that students on practical placements with employers must be paid in accordance with the conditions in their contracts, but not less than the minimum monthly wage set by the Government (Conclusions 2006). The Committee asked whether all apprentices receive an allowance which cannot be less than the minimum monthly wage indicated in the report and also asked to be provided with examples of allowances paid to apprentices at the beginning and at the end of the apprenticeship. Pending receipt of this information, the Committee reserved its position on this point.

The Committee recalls that the terms of apprenticeships should not last too long and, as skills are acquired, the allowance should be gradually increased throughout the contract period (Conclusions II (1971), Statement of interpretation on Article 7§5), starting from at least one-third of the adult starting wage or minimum wage at the commencement of the apprenticeship, and arriving at least at two-thirds at the end (Conclusions 2006, Portugal).

The report states that new types of labour contract have been introduced in the new Labour Code of Lithuania (LC), such as an apprenticeship employment contract. An apprenticeship employment contract may be: 1) an apprenticeship employment contract without concluding a training contract; 2) an apprenticeship employment contract concluded with a lawfully regulated training contract on formal or non-formal training. An apprenticeship employment contract must establish the duration of working time and other training time. The apprentice's total working time including training time may not exceed 48 hours per week, except for an apprentice under the age of 18, for whom the duration of working time is established by the Republic of Lithuania Law on Safety and Health at Work. Training may take place at both the workplace and the training establishment. For time that was actually worked, an apprentice shall be paid the remuneration provided for in the apprenticeship employment contract, which may not be lower than the minimum monthly wage or minimum hourly rate approved. The time spent at the workplace to acquire theoretical knowledge and the time allocated for workplace training shall be included as time that was actually worked if it exceeds 20 per cent of the time that was actually worked. Time spent at the training institution shall not be included in working time and the employer shall not be required to pay remuneration for that time. Said time should not account for more than 30 per cent of the duration of the apprenticeship employment contract.

The report does not contain specific information about the questions asked previously by the Committee, mainly concerning allowances paid at the beginning and at the end of the apprenticeship. It results from the explanation given that, when there is training time to be included, the apprenticeship may receive 50% of the minimum monthly wage. Pending receipt of the information requested, the Committee reserves its position on this point.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 7 - Right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

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

The Committee notes from the information provided in the report that there have been no significant changes to the situation, which it has previously found to be in conformity with Article 7§6 of the Charter (Conclusions 2011 and 2015, Article 7§6). It asked previously to provide a full and up-to-date description of the situation in law and in practice.

The report indicates that, as established by the Law on Safety and Health at Work, working time for children during the school year is limited to a maximum of 12 hours per week: up to 2 hours per day on days of school attendance and up to 6 hours per day outside school attendance if working during the term or semester, but not when there are lessons at school (Article 36(3)). For persons under the age of eighteen who work at more than one workplace or study at a vocational training establishment and work, the daily and weekly working time at each workplace and the duration of practical training shall be cumulative (Article 36(6)). Working time cannot be more than 8 hours per day (counting the daily duration of lessons as working time) and 40 hours per week (counting the weekly duration of lessons as working time) (Article 36(5)).

The Committee recalls that the situation in practice should be regularly monitored and reiterates its former question for next report to provide information on the monitoring activities and findings of the State Labour Inspectorate in relation to inclusion of time spent on vocational training in the normal working time.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 7§6 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 7 - Paid annual holidays

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

The Committee notes from the information provided in the report that there have been no changes to the situation which it has previously found to be in conformity with Article 7§7 of the Charter. All workers under the age of 28 are entitled to 25 working days (for those who work five days per week or less) or 30 working days (for those who work six days per week) of annual leave.

The report indicates that during the reference period the State Labour Inspectorate did not identify any violations of the regulations related to paid annual holiday for employees under 18.

The Committee recalls that the situation in practice should be regularly monitored. Having noted that the Labour Inspectorate did not identify any violations, the Committee asks that the next report contain information on the activities of the Labour Inspectorate specifically concerning the respect of the paid annual holiday for young persons under 18, as well as on the number of inspections conducted.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 7§7 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 8 - Prohibition of night work

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

The Committee notes from the information provided in the report that there have been no significant legislative changes to the situation, which it has previously found to be in conformity with Article 7§8 of the Charter.

The report indicates that, during the reference period, State Labour Inspectorate imposed administrative fines for 18 employers for administrative violations of work and rest time applied for minors. Labour inspectors detected that 25 employees of 16-17 years old were working at the workplace at night time (after 10 pm) and one employee of 15 years old was working after 8 pm. During the reference period, a total amount of 1,812 € was imposed for such administrative violations.

The Committee recalls that the situation in practice should be regularly monitored and asks the next report to provide information on the monitoring activities and findings of the State Labour Inspectorate in relation to prohibition of night work for young persons under 18.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 7§8 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

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

The Committee notes from the information provided in the report submitted by Lithuania that there have been no changes to the situation which it has previously found to be in conformity with Article 7§9 of the Charter.

The report does not contain any information on the monitoring carried out by the Labour Inspectorate. The Committee recalls that the situation in practice should be regularly monitored and asks the next report to provide information on the monitoring activities and findings of the State Labour Inspectorate in relation to regular medical examination of young workers.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 7§9 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

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

Protection against sexual exploitation

The Committee asked in its previous conclusion (Conclusions 2015) to provide statistical information on the extent of sexual exploitation of children, including through trafficking.

According to the report, the number of child victims of trafficking for sexual exploitation has decreased in recent years, from 10 child victims in 2015 to 1 child victim in 2016 and 2 child victims in 2017.

According to the Report of GRETA concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania (2019) (outside the reference period), three child victims of trafficking were identified in 2014, 17 in 2015, four in 2016 and eight in 2017. All children were Lithuanian nationals, trafficked mostly for the purpose of sexual exploitation (12 girls) and forced criminality (10 boys and two girls). Most of the children were trafficked within Lithuania (19), followed by Germany (4), Finland (3), Denmark (1), Netherlands (1) and Norway (1).

The Committee notes from the report that the number of children recognised as victims of sexual crimes under the Criminal Code increased from 112 victims in 2014 to 225 victims in 2017.

The Committee asks the next report to provide updated information in this respect.

According to the report, the Criminal Code of the Republic of Lithuania contains extremely strict provisions aimed at ensuring effective protection of children against any form of sexual abuse or sexual exploitation. The Committee notes that the Criminal Code provides that an adolescent is a person under the age of 18 and a minor is a person under the age of 14.

As regards the protection of children against sexual exploitation and abuse, the Committee notes that the following acts are criminalised; the grooming of a person under the age of 16 for the purpose of having a sexual intercourse or otherwise satisfying his/her sexual desires or exploiting him/her for the production of pornographic material (Article 152(1)), sexual molestation of a person under the age of sixteen years (Article 153), gaining profit from the prostitution of a person under 18 years of age (Article 307), and possession of pornographic material depicting adolescents or minors (Article 309).

The Committee recalls that States Parties must criminalise sexual exploitation, child prostitution, child pornography involving all children under the age of 18, irrespective of lower national ages of sexual consent. It seeks confirmation that this is the case in Lithuania.

It also recalls that child victims of sexual exploitation should not be prosecuted for any act connected with this exploitation. It therefore requests that the next report provide information whether this principle is respected by Lithuania.

Protection against the misuse of information technologies

The Committee asked in its previous conclusion (Conclusions 2015) to receive updated information as regards measures taken to strengthen protection of children against exploitation by means of information technologies. The report does not provide the requested information.

The Committee therefore reiterates its requests to be provided with updated information on the measures taken to protect children against the misuse of information technologies.

Protection from other forms of exploitation

In its previous conclusion (Conclusions 2015), the Committee asked to be informed of measures taken to assist child victims of trafficking. The report does provide information in this respect.

The Committee notes from the above-mentioned report of GRETA that, in the opinion of representatives of local authorities and NGOs, the current measures for the protection and assistance for child victims of trafficking in Lithuania do not adequately address the needs of trafficked children.

It notes from the same source that the State Child Protection and Adoption Service held training sessions for staff working in the field of child's welfare, covering the prevention of child trafficking, safeguarding the rights and interests of victims of commercial sexual exploitation, identification of child victims of trafficking, conduct of investigations, preventing and investigating cases of missing children, and work with juvenile offenders.

The Committee asks the next report to provide information on measures taken to detect and assist child victims of trafficking.

The Committee requests to be informed about measures taken to protect and assist children in vulnerable situations, with particular attention to children in street situations and children at risk of child labour, including those in rural areas.

The Committee refers to the General Comment No. 21 of the UN Committee on the Rights of the Child which provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 8 - Right of employed women to protection of maternity
Paragraph 1 - Maternity leave

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§1. It will therefore only consider the recent developments and additional information.

Right to maternity leave

The Committee notes that the Parliament approved the new Labour Code which came into force on 1 July 2017.

Article 132, which applies to employees in both the public and the private sectors, provides for maternity and childbirth leave: 70 calendar days before childbirth and 56 days after. In exceptional cases (multiple births, premature babies or babies requiring special care), the period of leave after childbirth may be extended to 70 days. The report states that maternity and childbirth leave is paid in full, regardless of the number of days actually taken prior to childbirth. The Committee notes that Article 132(1) of the Labour Code provides that if an employee does not use her pregnancy or maternity leave, the employer must grant fourteen days starting from childbirth, irrespective of the employee's request. The Committee notes that this is a compulsory period of 14 days post-natal leave.

The Committee recalls that, according to its case law, national legislation allows women to opt for a maternity leave shorter than 14 weeks, but in all cases there must be a compulsory period of postnatal leave of no less than six weeks which the employee cannot waive. Where compulsory leave is less than six weeks, adequate legal safeguards must fully protect the right of employed women to choose freely when to return to work after childbirth – in particular, an adequate level of protection for women having recently given birth who wish to take the full maternity leave period. In view of the above, the Committee again requests further information on the legislative framework protecting employees from discriminatory treatment related to maternity leave as well as statistical data concerning the average length of maternity leave and the number and percentage of employed women, both in the private and in the public sectors, who take less than six weeks' postnatal leave. In the meantime, it reserves its conclusion on this point.

The report states that Article 131 of the Labour Code provides for types of special leave other than maternity and childbirth leave: paternity leave, childcare leave, educational leave, sabbatical leave and unpaid leave. Article 133 of the Labour Code provides for 30 days paid paternity leave.

Right to maternity benefits

The report states that 100% of the compensatory wage is paid each month during the 70 calendar days preceding childbirth and the 56 days following the birth. There is no set ceiling in this case. In 2017, the average amount of maternity benefit paid per working day was €78.80.

In its previous conclusion (Conclusions 2015), the Committee asked whether the minimum amount of maternity benefits corresponded to at least 50% of the median equivalised income.

The Committee recalls that, under Article 8§1, the level of income-replacement benefits should be fixed so as to stand in reasonable proportion to the previous salary (these shall be equal to the previous salary or close to its value, and not be less than 70% of the previous wage) and it should never fall below 50% of the median equivalised income (Statement of Interpretation on Article 8§1, Conclusions 2015). If the benefit in question stands between 40% and 50% of the median equivalised income, other benefits, including social assistance

and housing, will be taken into account. On the other hand, if the level of the benefit is below 40% of the median equivalised income, it is manifestly inadequate and its combination with other benefits cannot bring the situation into conformity with Article 8§1.

According to Eurostat data, the median equivalised annual income was €6,135 in 2017, or €511 per month. 50% of the median equivalised income was €3,068 per annum, or €256 per month. Eurostat data for 2017 puts the gross minimum monthly salary at €380. In view of the above, the Committee notes that the situation is in conformity with Article 8§1 on this point.

In its previous conclusion, the Committee asked for information on the way the qualifying period was calculated and whether it included interruptions in the employment record. It also asked whether the women employees who did not fulfil the qualifying conditions for maternity benefit were entitled to other benefits.

According to the report, the qualifying period for benefits allows interruptions in the employment record, as it is required to have paid social insurance contribution for only 12 months over the previous 24 months. Female employees who do not fulfil the qualifying conditions for entitlement to maternity benefit may claim other benefits from the social protection system.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 8§1 of the Charter.

Article 8 - Right of employed women to protection of maternity
Paragraph 2 - Illegality of dismissal during maternity leave

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

Prohibition of dismissal

In its previous conclusion (Conclusions 2015), the Committee found that the situation was not in conformity with the Charter on the ground that exceptions to the prohibition of dismissal of employees during pregnancy or maternity leave were excessively broad.

The Committee notes that Parliament has approved the new Labour Code which came into force on 1st July 2017.

The Committee notes from the report that pregnant women enjoy protection against dismissal from the day they notify their employer that they are pregnant until fourth month of the child. The report specifies that employers are even prohibited from giving notice to pregnant employees of imminent termination of the employment contract or from deciding to terminate an employment contract on other grounds. If grounds for terminating an employment contract emerge during this period, the employee may only be informed of it after the period of protection.

The report states that according to Article 59 of the Labour Code, an employment contract with an employee on maternity leave or child care leave cannot be terminated at the employer's request. Section 61(1) of the Labour Code provides that a pregnant woman's employment contract may be terminated from the day on which her employer receives a medical certificate confirming her pregnancy, and until her child reaches the age of four months, but only in the following cases: upon mutual agreement, resignation, resignation during a probatory period, upon objective grounds, when the law requires the termination of the contract and upon the expiry of the fixed-term employment contract. The Committee asks for further information on objective grounds for which the law requires the termination of the contract.

Redress in case of unlawful dismissal

The Committee notes from the report that under Article 218 of the Labour Code, if an employee is suspended from work without legal basis, the labour dispute resolution body (or a court) may order the employer to reinstate her and pay her the average salary for this period along with damages.

As regards the assessment of the amount of non-pecuniary damages, the Committee refers to its previous conclusions (Conclusions 2015) for a full description. It takes note of the examples of the relevant case law in cases of compensation for unfair dismissal during maternity leave.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 8§2 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 3 - Time off for nursing mothers

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§3 of the Charter.

The Committee notes that Parliament has approved the new Labour Code which came into force on 1st July 2017.

Since, according to the report, there has been no change in the situation concerning nursing breaks, the Committee reiterates its previous finding of conformity.

It asks what rules apply to women working part-time.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 8§3 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 4 - Regulation of night work

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§4 of the Charter. It noted that the report referred to Articles 154(4) and 278(10) of the Labour Code. However, the Committee notes that Parliament has approved the new Labour Code which came into force on 1st July 2017. Therefore, it asks that the next report indicate whether the new Labour Code still contains provisions concerning night work for pregnant women and women who have recently given birth or are nursing their infant. The Committee asks for detailed information in the next report on the applicable regulations.

According to the report, the Law on Health and Safety at Work provides that pregnant women, women who have recently given birth or are nursing their infant may be assigned to night work only with their consent. If an employee refuses to work at night and produces a certificate indicating that such work would affect her health and safety, she must be transferred to daytime work. If such a transfer is impossible for objective reasons, she must be granted leave which will be paid based on her average salary; until the date of the beginning of the maternity leave or childcare leave (until the first birthday of the child) and be paid based on the average monthly wage.

The Committee refers to its Statement of Interpretation on Articles 8§4 and 8§5 (Conclusions 2019) and asks the next report to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post related to pregnancy and maternity, the woman concerned is entitled to paid leave; it furthermore asks the next report to confirm that the women concerned retain the right to return to their previous employment at the end of the protected period.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 8§4 of the Charter.

Article 8 - Right of employed women to protection of maternity
Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§5 of the Charter and asked to provide updated information on the list detailing the hazardous conditions of work and dangerous factors for which specific protection rules exist in favour of women who are pregnant, have recently given birth or are nursing. It also asked to specify what restrictions applied in respect of the employment of these categories of women in occupations involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents.

The report states that Resolution No. 469 on the Approval of the Description of Working Conditions For Pregnant Women, Women Who Have Recently Given Birth or Who Are Breastfeeding was adopted on 21 June 2017. It sets out the provisions for assessing harmful working conditions and risk factors, sets out the list of prohibited work and the list of working conditions and factors that are dangerous for pregnant women, women who have recently given birth or who are nursing. The Committee asks anew whether all the specific risks (i.e. activities involving exposure to lead, benzene, ionising radiation, high temperatures, vibration or viral agents) are included in Resolution No. 469 and are limited to the women in question. It asks for details on these restrictions in the next report.

In its previous conclusion, the Committee noted that the report referred to Article 278 of the Labour Code. However, the Committee notes that Parliament has approved the new Labour Code which came into force on 1 July 2017. Therefore, it asks that the next report for clarifying whether the new Labour Code still contains the provisions regarding the prohibition on dangerous, unhealthy and arduous work for pregnant women, women who have recently given birth or who are nursing. The Committee asks for detailed information in the next report on the applicable regulations.

According to the report, under Article 37 of the Law on Health and Safety at Work, pregnant women, women who have recently given birth or who are nursing their infant must be afforded safe and healthy work conditions. If it is impossible to eliminate dangerous factors, employers must take measures to adjust working conditions to avoid exposing the women concerned to risks or transfer them to another post, where they should be paid no less than their average wage.

If it is impossible to transfer a pregnant woman to another post, she will be granted leave until she goes on maternity leave and be paid no less than her average monthly wage during the period of extra leave. If it is technically unfeasible to transfer women who have recently given birth or are nursing their infant to another post, they will be granted leave until their child is 12 months old and be paid for the period of contributions to maternity insurance prescribed by law.

The Committee points out that Article 8 of the Charter provides specific rights protecting employed women during pregnancy and maternity (Statement of Interpretation on Articles 8§4 and 8§5, Conclusions 2019). Since pregnancy and maternity are gender-specific, any less favourable treatment due to pregnancy or maternity is to be considered as direct gender discrimination. Consequently, the non-provision of specific rights aimed at protecting the health and safety of a mother and a child during pregnancy and maternity, or the erosion of their rights due to special protection during such a period are also direct gender discrimination. It follows that, in order to ensure non-discrimination on the grounds of gender, employed women during the protected period may not be placed in a less advantageous situation, also with regard to their income, if an adjustment of their working conditions is necessary in order to ensure the required level of the protection of health. It follows that, in the case a woman cannot be employed in her workplace due to health and safety concerns and as a result, she is transferred to another post or, should such transfer not be possible,

she is granted leave instead, States must ensure that during the protected period, she is entitled to her average previous pay or provided with a social security benefit corresponding to 100% of her previous average pay. Further, she should have the right to return to her previous post.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 8§5 of the Charter.

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 Lithuania.

Legal protection of families

Rights and obligations, dispute settlement

In response to the Committee's request for a full and up-to-date description of the **rights and obligations of spouses** (Conclusions 2015), the report confirms that Article 3.3 Part 1 of the Civil Code (CC) states that the legal regulation of family relationships is notably based on the principle of equality of spouses. This implies that spouses have equal rights and equal civil liability in respect of each other and their children in matters related to the formation, duration and dissolution of their marriage (Art. 3.26 Part 2 CC). They support each other morally and financially and contribute toward the common needs of the family or the needs of the other spouse in proportion to their respective capabilities. The Committee notes the detailed information provided in the report concerning the rights and obligations in respect of children and property. In particular, the report indicates that parents have equal rights and duties in respect of their children (Art. 3.156 CC), irrespective of whether the child was born to a married or unmarried couple, after divorce or judicial nullity of the marriage or separation. As regards property, unless otherwise determined in a marriage contract (Article 3.83 CC), the legal regime applies, i.e.: the property acquired by the spouses after the commencement of their marriage is their common property until their separation as to property or until the joint community property rights are extinguished. In accordance to Article 3.92 CC, joint community property is to be used, managed and disposed of by the mutual agreement of the spouses.

The report also provides detailed information on the legal arrangements available for the **settlement of disputes**, in particular those relating to children, including their residence, their right to maintain contact with the parents irrespective of their residence, the parents' right to be involved in their education and management of property, as well as the parents' duty to provide for the maintenance of their underage children in accordance with their financial situation. Article 3.33 CC provides that where the spouses are unable to agree as to the performance of their duties or the exercise of their rights, either of them shall have a right to apply to the court for the resolution of their dispute. The court shall take measures for the reconciliation of the spouses. In addition, the court must decide on the dispute of the spouses by taking account of the interests of their children of minor age and the interests of the family as a whole. When the marriage is dissolved by mutual consent of the spouses, the latter will define the consequences of the divorce (maintenance payments, residence of children etc.) in a contract which will be submitted to the court for approval and included in the divorce judgement. These issues (maintenance etc.) will be settled by the court if the marriage is dissolved on an application of one of the spouses.

Issues related to **restrictions to parental rights and placement of children** are examined under Article 17§1.

The Committee takes note of the detailed information provided in the report on **mediation services**, in response to its questions, under the Law on Conciliatory Mediation in Civil Disputes, which was adopted on 15 July 2008 (implementing Directive 2008/52/EC). It notes the adoption of Rules and Regulations of Judicial Mediation by the Council of Judges and the setting up of a Judicial Mediation Commission in 2014. According to the report, judicial mediation is free of charge for the parties. The Committee refers to the report as regards the details of amendments adopted in 2017, which will enter into force in 2019 (out of the reference period) which are aimed at promoting mediation and defining criteria for the exercise of mediation services, including quality requirements.

Domestic violence against women

The Committee recalls that States Parties are required to ensure an adequate protection with respect to women, both in law and in practice, in the light of the principles laid down in Recommendation Rec(2002)5 of the Committee of Ministers of the Council of Europe to member States on the protection of women against violence and Parliamentary Assembly Recommendation 1681 (2004) on a campaign to combat domestic violence against women in Europe. It notes that these instruments have been superseded in 2011 by the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which is legally binding for the States which have ratified it. It notes however that Lithuania has not ratified the Istanbul Convention yet.

The Committee takes note of the adoption of new prevention measures (targeted trainings to concerned professionals, activities for persons seeking alternatives to violent behaviour and rehabilitation activities for perpetrators, awareness-raising campaign "16 days against violence" and various other events attended by more than 28 000 people) which, according to surveys mentioned in the report, are contributing to change public opinion attitude towards domestic violence and increase awareness of assistance possibilities. In terms of integrated policies, the report indicates that these measures are being carried out in cooperation with relevant NGOs, which are funded by the State (740 000€ were allocated in this respect in 2017).

As regards protection of victims of domestic violence, the Committee previously noted (Conclusions 2015) the adoption in 2011 of a Law on Protection against Domestic Violence, the drafting of a National Programme for the Prevention of Domestic Violence and Provision of Assistance to Victims 2014-2020 and the setting up in 2012 of a network of specialised assistance centres (SAC). In this connection, the report indicates that in 2017, the SAC provided assistance to 11 635 victims (against 8 384 in 2014). According to the Concluding observations on the sixth periodic report of Lithuania adopted by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), amendments were introduced in the Criminal Code in 2015, providing for temporary protection orders in cases of domestic violence, and in the Code of Criminal procedure in 2017, improving women protection against secondary victimisation in trials. However, the CEDAW also expressed concern about proposed amendments to mediation provisions, shortcomings in law and practice concerning the restrictive/protection measures for victims of domestic violence and the insufficient funding of SAC in rural areas.

Furthermore, the CEDAW expressed concern at the inadequate handling of cases of gender-based violence against women, in particular sexual and domestic violence, by the investigating authorities, such as failure to complete the investigation or to move to criminal prosecution. In this respect, the Committee notes that the report does not provide any information on prosecution of domestic violence.

The Committee asks the next report to provide updated information on all the points considered above, including relevant statistical data and examples of case-law in order to assess in particular how the legislation is interpreted and applied. It reserves in the meantime its position on this issue.

Social and economic protection of families

Family counselling services

The Committee refers to its previous conclusion (Conclusions 2015) for an overall description of the situation, which it found to be in conformity with the Charter.

Childcare facilities

The Committee previously requested (Conclusions 2015, Article 27§1) updated information on the provision of childcare places, and whether services are affordable and of high standard (quality being assessed on the basis of the number of children under the age of six covered, staff to child ratios, staff qualifications, suitability of the premises and the amount of the financial contribution parents are asked to make). As the report does not provide any information on these issues, the Committee reiterates its questions. In the meantime, it reserves its position on this point.

Family benefits

Equal access to family benefits

The Committee notes that the Law on Benefits to Children was amended (2017, No. XIII-822) and applies to citizens of the Republic of Lithuania; aliens holding a long-term residence; aliens with temporary residence permit for the purposes of highly qualified employment; aliens with temporary permit to reside and work in the Republic of Lithuania and who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed.

The Committee recalls that under Article 16 the States may apply a length of residence requirement as regards non-contributory benefits on condition that the length is not excessive. The Committee has considered that a period of 6 months is reasonable and therefore in conformity with Article 16. The Committee understands that aliens with a temporary residence permit, who have been employed for a minimum period of six months are entitled to family benefits. Therefore, the Committee considers that the situation is in conformity with the Charter as regards equal treatment of foreign nationals with regard to family benefits.

Level of family benefits

In its previous conclusion (Conclusions 2015) the Committee considered that the situation was not in conformity on the ground that family benefits were not of an adequate level for a significant number of families.

The Committee notes from the report that in order to support families with children and to reduce child poverty, amendments to the Law on Benefits to Children were adopted in 2017, according to which child benefit amounting to € 30.02 is paid for every child from birth to the age of 18 years. For low income families raising one or two children and families raising three or more children child benefit is paid additionally.

The Committee further notes from MISSOC that monthly amounts of child benefits, paid from 0 to 18 years old (or 21 years if the person studies according to the general education curriculum) the amount of the universal child benefit paid for all children without regard to family income was €30.02. Additionally €28.5 is paid for:

- 0-2 years old: if the family is raising 1 or 2 children and the average family's income per person per month does not exceed €183.
- 0-2 years old: if the family is raising three and more children (without regard for the family income)

In addition, € 15.5 is paid for:

- 2-18 years old (or 21 years if the person studies according to the general education curriculum): if the family is raising 1 or 2 children and the average family's income per person per month does not exceed €183.
- 2-18 years old (or 21 years if the person studies according to the general education curriculum): if the family is raising three and more children (without regard for the family income).

The report also states that the purpose of the amendments were to support families raising children and reduce child poverty. Moreover, it is planned to further raise child benefit amount from €30.02 to € 50.16 in 2019.

The Committee notes that the median equivalised income stood at € 511. Therefore, the universal child benefit amounted to 5,8% of the median income. The Committee also observes that in addition to this universal benefit, families on low-income receive other allowances in the amount of € 28 and € 15, depending on the age of the child. The Committee considers that child benefit constitutes a significant income supplement. Therefore, the situation is in conformity with the Charter on this point.

Measures in favour of vulnerable families

In its previous conclusion (Conclusions 2015) the Committee asked what measures were taken to ensure the economic protection of Roma families. In this respect, the Committee takes note of activities implemented under the measures 'Integrated Services for Families' and 'Social Integration of Roma', financed from the ESF. It also notes that the Action Plan for the Integration of Roma for 2015-2020 also includes a measure on labour market integration with a view to avoiding social exclusion.

Housing for families

Lithuania has accepted Article 31 of the Charter on the right to housing. As all aspects of housing of families covered by Article 16 are also covered by Article 31, for states that have accepted both articles, the Committee refers to Article 31 on matters relating to the housing of families.

Participation of associations representing families

The Committee refers to its previous conclusions (Conclusions 2011, 2015) for an overall description of the situation, which it found to be in conformity with the Charter. It asks nevertheless the next report to provide updated information on this point.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 1 - Assistance, education and training

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

The legal status of the child

The Committee notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter (Conclusions 2015).

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. Nor does it include children born stateless in Europe or those who have not sought asylum. In 2015, UNHCR estimated the total number of stateless persons in Europe at 592,151 individuals.

Therefore, 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 of nationality, and taking measures to identify children unregistered at birth).

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

Protection from ill-treatment and abuse

In its previous conclusion (Conclusions 2015) the Committee found that the situation was not in conformity with the Charter on the ground that corporal punishment was not explicitly prohibited in the home, in schools and in institutions.

The report states that in 2017, the *Seimas* voted in favour of amendments to the Law on the Fundamentals of Protection of the Rights of the Child 1996, recognising children's right to be protected from all forms of violence, including corporal punishment.

Article 2 of the amended law defines corporal punishment as "any punishment in which physical force is used to cause physical pain, even on a small scale, or otherwise to physically torture a child". Article 49.1 of the amended law now states: "Parents and other legal representatives of the child may appropriately, according to their judgment, discipline the child, for avoiding to carry out his duties and for disciplinary infractions, with the exception of corporal punishment and any other form of violence". Article 4 of the amended law recognises children's right "to be protected from of all forms of violence, including corporal punishment, by their parents, other legal representatives, persons living with them or other persons".

The Committee considers that the situation is now in conformity in this respect.

Rights of children in public care

The Committee notes that the number of children placed under guardianship decreased slightly during the reference period and that most children are cared for in foster families or in family care homes. However the Committee notes that the number of children in institutions remains quite high. It notes from a report of the Commissioner for Human Rights of the Council of Europe following his visit in 2016 (CommDH(2017)7) that as of 1 January

2017, the guardianship of a child under three years of age may take place in a child care institution only in exceptional cases.

The Committee asks to be kept informed of the number of children under guardianship, the number placed in institutions and in foster care as well as trends in the area.

In its previous Conclusion the Committee asked for information on the criteria for restriction of custody or parental rights and about the procedural safeguards that existed to ensure that children were removed from their families only in exceptional circumstances and whether the poor financial situation of a family could be a ground for restriction of parental rights (Conclusions 2015). The report does not provide this information therefore the Committee concludes that it has not been established that the situation is in conformity with the Charter in this respect.

Right to education

As regards the right to accessible and effective education, the Committee refers to its conclusion under Article 17§2.

Children in conflict with the law

The Committee previously asked for up-to-date figures on the number of children in prison and in pre-trial detention facilities. According to the report there are 51 minors in custody, 16 of whom are in pre-trial detention.

The Committee asks for information about the maximum length of pre-trial detention and about maximum prison sentences that maybe imposed on a child. The Committee also asks whether children may be placed in solitary confinement, if so for how long and under what circumstances.

The Committee notes from the above cited report of the Commissioner for Human Rights of the Council of Europe that the Law on Fundamentals of the Protection of the Rights of the Child permits the placement of a child in a special educational and disciplinary institution when a child below the age of criminal responsibility is involved in criminal activity and/or has committed a crime, but also in cases of minor offences or even as a result of behavioural problems (delinquent behaviour). The decision is based on the recommendation of the relevant institution (care home or a special municipal commission) and a court authorisation.

Children are generally accepted in "socialisation centres" from the age of 14, but in exceptional circumstances younger children may also be admitted to these centres, for instance, when the child's behaviour poses a risk to another person's life, health and/or property. The Commissioner expressed concern about the placement of minors in socialisation centres and expressed the belief that many children are placed in such an institution not because the offences they have committed might have justified doing so, but due to the absence of real alternatives such as provision of adequate support and rehabilitation services in their families or in a family-like environment.

The Committee asks the next report to provide information on the range of measures available when dealing with children both below and above the age of criminal responsibility who have committed a criminal offence and any information on measures taken to reduce recourse to closed type institutions.

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 the detention of children on the basis of their immigration status or that of their parents 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 grounds that they are unaccompanied or separated, or on their migratory or residence status, or lack thereof.

The report provides no information on the assistance given to children in an irregular situation either accompanied or unaccompanied.

The Committee asks what measures have been taken to ensure that children irregularly present both accompanied or not, are accommodated in appropriate settings, and whether they have access to medical care. It also requests further information on the assistance given to unaccompanied children, especially to protect them from exploitation and abuse.

The Committee requests information as to whether minors irregularly present 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 Lithuania uses bone testing to assess age and, if so, in what situations the state does so. Should the State carry out such testing, the Committee asks what potential consequences such testing may have (e.g., can a child be excluded from the child protection system on the sole basis of the outcome of such a test?).

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 State Parties 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 that according to EUROSTAT in 2017 31.6% of children in Lithuania of children were at risk of poverty or social exclusion (significantly higher than the EU average of 24.9%).

The Committee asks the next report to provide information on the rates of child poverty as well as on the 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 Lithuania is not in conformity with Article 17§1 of the Charter on the ground that it has not been established that children may only be

removed from their families in exceptional circumstances and never on the sole ground of their family's financial situation.

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 2 - Free primary and secondary education - regular attendance at school

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

Enrolment rates, absenteeism and drop out rates

The Committee notes from UNESCO in 2017 that the net secondary school enrolment rate was 97.63% for both sexes. The corresponding rate for primary education was 98.18%.

The Committee previously requested information on enrolment and drop-out rates as well as information on measures taken to address issues related to these rates (Conclusions 2015).

The report provides no information in this respect. The Committee considers if this information is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

Costs associated with education

The Committee previously asked whether assistance to help with the costs of school such as books, uniforms, transport, meals, was provided to vulnerable groups (Conclusions 2015).

No information is provided in the report. The Committee repeats its request for the above-mentioned information. The Committee considers if this information is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

Vulnerable groups

The Committee previously asked whether children irregularly present have a right to education in Lithuania.

According to the report children of foreigners who have received temporary protection in Lithuania, as well as unaccompanied foreign minors regardless of their legal status in Lithuania, have the right to receive education in Lithuania within the general education system. The Committee seeks confirmation that all children with an irregular migration status accompanied by their families may also attend educational facilities. It also seeks information on any educational support measures available to such children.

The Committee asks the next report to provide information on the measures adopted to ensure equal access to education for children from vulnerable groups such as Roma children, to prevent their early school leaving, to improve their educational outcomes and ensure that Roma children are not educated in segregated settings.

As Lithuania has accepted Article 15§1 of the Charter the Committee will examine the right of children with disabilities to education under that provision.

Anti-bullying policies

The Committee notes from the report (under Article 17§1) that schools are implementing comprehensive anti-bullying training.

The voice of the child in education

Securing the right of the child to be heard within education is crucial for the realisation of the right to education in terms of Article 17§2 This requires states to ensure child participation across a broad range of decision-making and activities related to education, including in the context of children's specific learning environments. The Committee asks what measures have been taken by the State to facilitate child participation in this regard

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

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

Migration trends

The report provides that Lithuania is primarily a country of origin for migration. According to official figures provided in the report the population of Lithuania decreased and the greatest proportional decrease was of Latvian nationals (31.5%), however the most significant outflows were of Lithuanians (11.9% decrease), Poles (14.8% decrease) and Russians (19.5% decrease). Immigration to the country suffered a reduction during the economic crisis period, but has since returned to previous levels. The total number of permits issued for third country nationals to work in the Republic of Lithuania between 2010 and 2013 was 14,798. There was a steady increase in the number each year, rising from 1,808 in 2010 to 5,036 in 2013.

Change in policy and the legal framework

The Committee notes that it has previously assessed the policy and legal framework relating to migration matters (Conclusions 2015). The report provides that it has further strengthened with respect to, in particular prevention of discrimination (with the 2017 Law on Equal Opportunities for Men and Women) and simplifying employment procedures for migrant workers.

Free services and information for migrant workers

The Committee recalls that this provision guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate (Conclusions I (1969), Statement of Interpretation on Article 19§1). Information should be reliable and objective, and cover issues such as formalities to be completed and the living and working conditions they may expect in the country of destination (such as vocational guidance and training, social security, trade union membership, housing, social services, education and health) (Conclusions III (1973), Cyprus).

The Committee considers that free information and assistance services for migrants must be accessible in order to be effective. While the provision of online resources is a valuable service, it considers that due to the potential restricted access of migrants, other means of information are necessary, such as helplines and drop-in centres (Conclusions 2015, Armenia).

The Committee further notes that it has comprehensively assessed the services and information for migrant workers (see for a detailed description Conclusions 2015). In this respect, it asked what services and assistance were available to workers wishing to leave Lithuania.

In reply, the report provides that services are provided for migrant workers, including information, guidance and placement, to both immigrants and emigrants interested in the Lithuanian or European job market. Advisers provide information for migrant workers about living and working conditions, labour market situation, employment opportunities, social legislation, taxation, housing, living expenses, education, training opportunities, recognition of qualifications in Lithuania as well in other EU/EEA countries.

Measures against misleading propaganda relating to emigration and immigration

The Committee recalls that measures taken by the government should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter (Conclusions XIV-1 (1998), Greece).

The Committee considers that in order to be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia, as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary inter alia to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease (Conclusion XV-1 (2000), Austria).

The Committee also recalls that statements by public actors are capable of creating a discriminatory atmosphere. Racist misleading propaganda indirectly allowed or directly emanating from the state authorities constitutes a violation of the Charter (Centre on Housing Rights and Evictions (COHRE) v Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010). The Committee stresses the importance of promoting responsible dissemination of information, and of deterring the promulgation of discriminatory views.

The Committee further recalls that in order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere. It underlines that the authorities should take action against misleading propaganda as a means of preventing illegal immigration and trafficking in human beings (Conclusions 2006, Slovenia).

Finally, the Committee recalls that States must also take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.

The Committee has comprehensively assessed the measures taken to fight misleading propaganda and hate speech in its previous conclusion (see for a detailed description Conclusions 2015), including the Inter-institutional Action Plan to Promote Non-discrimination for 2012–2014. The report provides comprehensive information on implementation of the Action Plan until 2016 and on the adoption of the Action Plan for Promotion of Non-discrimination 2017–2019 and its relevant measures. In particular as regards raising public awareness on equal opportunities and non-discrimination issues. It also submits detailed information on the Office of the Inspector of Journalist Ethics and its work towards preventing hate speech in media.

In its previous conclusion (Conclusions 2015), the Committee recalled that States should take action in this area as a means of preventing illegal immigration and trafficking in human beings (Conclusions 2006, Slovenia). The Committee asked in this context for complete and up-to-date information on any measures taken to target illegal immigration and in particular, trafficking in human beings.

The report does not address this issue. The Committee recalls its question and underlines that should the next report not provide comprehensive information in this respect, there will be nothing to show that the situation is in conformity with the Charter on this point.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 3 - Co-operation between social services of emigration and immigration states

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

The Committee recalls that the scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin (Conclusions XIV-1 (1998), Belgium).

It also recalls that formal arrangements are not necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co-operation on a needs basis may be sufficient. Whilst it considers that collaboration among social services can be adapted in the light of the size of migratory movements (Conclusions XIV-1 (1996), Norway), it holds that there must still be established links or methods for such collaboration to take place.

The co-operation required entails a wider range of social and human problems facing migrants and their families than social security (Conclusions VII, (1981), Ireland). Common situations in which such co-operation would be useful would be for example where the migrant worker, who has left his or her family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to his or her country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which he was employed (Conclusions XV-1 (2000), Finland).

The Committee assessed in detail the cooperation of public and private social services in the migration matters in its previous conclusion and considered them to be in conformity with the Charter ([Conclusions 2015](#)).

Upon the Committee's request, the report provides information about an international agreement concluded in the reference period with Ukraine in the field of social service provision for the purpose of assisting migrants. The Committee also recalls from its previous conclusions that a number of agreements were concluded by the State Labour Inspectorate with similar offices in Poland (2005), Norway, Estonia and Latvia (2007).

The Committee notes from the International Organisation for Migration (IOM) reports that Lithuania is predominantly an emigration country and that return and reintegration assistance to migrant workers is offered in cooperation with the IOM. It requests information to be included in the next report on the assistance offered to returning migrants. Furthermore, it asks whether the cooperation extends beyond social security alone (for example in family matters).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 19§3 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 5 - Equality regarding taxes and contributions

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

It recalls that this provision recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions (Conclusions XIX-4 (2011), Greece).

The Committee further notes that it addressed the legal framework relating to equality regarding taxes and contributions (most recently in its [Conclusions 2011](#)) and found it to be in conformity with the requirements of the Charter. Considering the fact that the situation was reported to have remained unchanged, the Committee could renew its positive conclusion in 2015.

Upon the Committee's request for a full and up-to-date description of the situation in law and practice in respect of Article 19§5, the report confirms that migrant workers who are legally residing in Lithuania enjoy the same status as Lithuanian nationals with respect to the payment of taxes, fees and insurance contributions.

Furthermore, all social security areas ensure the application of equal treatment for all principle, including the following: sickness and maternity benefits; disability (lost capacity for work) pensions; old-age pensions; survivors' benefits; benefits for accidents at work and occupational diseases; death grants; unemployment benefits; family benefits.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 19§5 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 7 - Equality regarding legal proceedings

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

The Committee recalls that States must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals (Conclusions 2015, Armenia).

It further recalls that any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of his or her own choosing should be advised that he/she may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if he or she does not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter. Whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if he or she cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial proceedings (Conclusions 2011, Statement of interpretation on Article 19§7).

The Committee notes that it previously assessed the legal framework relating to the access to free legal counsels, legal aid and interpreter for migrant workers in judicial proceedings concerning the rights guaranteed by Article 19§7 ([Conclusions 2015](#)) and found it to be in conformity with the requirements of the Charter. It will focus in the present assessment on any changes or outstanding issues.

In reply to the Committee's request for clarification of the meaning of primary and secondary legal aid, as well as for further details on the eligibility for secondary legal aid, the report provides that primary state guaranteed legal aid is legal information, legal consultations and the preparation of documents meant for state and municipal institutions, except for procedural documents. It also encompasses advices regarding the extrajudicial dispute solution or preparation of peaceful settlements. Primary legal aid is provided by civil servants of the municipality administration or lawyers. Secondary state-guaranteed legal aid means drafting of documents, defense and representation in court. It shall also cover the litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings and the costs related to the hearing of a civil action brought in a criminal case.

Secondary legal aid is available to citizens whose assets and annual income do not exceed the asset and income levels set by the Government. The person's annual income should not exceed 10 minimum monthly wages (MMWs), i.e. EUR 3 800 of annual income. 3.75 MMWs per year (EUR 1 425) are added for each dependent. Furthermore, the person's assets (housing, land and movable assets (monetary funds, etc.) and the number of dependents is taken into account. A person may receive secondary legal aid only if the value of both his/her assets and income are within the scope of the first or the second level. Irrespective of personal assets and income, secondary legal aid is available: upon hearing the criminal procedure cases, when the participation of the defender is mandatory; to victims in proceedings for compensation of damage incurred through criminal offences, persons receiving social allowance, in care institutions, pensioners, debtors in enforcement proceedings or in proceedings concerning children.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 19§7 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 9 - Transfer of earnings and savings

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

The Committee recalls that this provision obliges States Parties not to place excessive restrictions on the right of migrants to transfer earnings and savings, either during their stay or when they leave their host country (Conclusions XIII-1 (1993), Greece).

The Committee notes that there have been no changes to the situation which it previously considered to be in conformity with the Charter ([Conclusions 2015](#)).

In the previous conclusion (Conclusions 2015) the Committee referred to its Statement of Interpretation on Article 19§9 ([Conclusions 2011](#)), affirming that the right to transfer earnings and savings includes the right to transfer movable property of migrant workers. It asked whether there were any restrictions in this respect.

In reply, the report states that movable property may be imported to Lithuania with exemption from VAT tax, provided that it is a personal property and was used by the person concerned at his former place of residence for a minimum of six months before moving to Lithuania and the person concerned resided in the third country for a continuous period of at least 12 months. The Committee asks the next report to specify whether any restrictions apply for a transfer of movable property of migrant workers abroad from Lithuania.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 19§9 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 10 - Equal treatment for the self-employed

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

On the basis of the information in the report the Committee notes that there continues to be no discrimination in law between migrant employees and self-employed migrants in respect of the rights guaranteed by Article 19.

However, in the case of equal treatment between wage-earners and self-employed migrants and between self-employed migrants and self-employed nationals, a deferral under paragraphs 1 to 9, 11 and/or 12 of Article 19 leads to a deferral under paragraph 10 since the same situation applies to self-employed workers.

In its conclusions under Article 19§1 the Committee has deferred its conclusions upon receipt of further information. Accordingly, the Committee defers its conclusion under Article 19§10 of the Charter.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 11 - Teaching language of host state

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

The Committee recalls that the teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into the world of work and society at large. States should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age (Conclusions 2002, France).

Article 19§11 requires that States shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities. It considers that a requirement to pay substantial fees is not in conformity with the Charter. States are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible (Conclusions 2011, Norway).

The language of the host country is automatically taught to primary and secondary school students throughout the school curriculum but this is not enough to satisfy the obligations laid down by Article 19§11. The Committee recalls that States must make special effort to set up additional assistance for children of immigrants who have not attended primary school right from the beginning and who therefore lag behind their fellow students who are nationals of the country (Conclusions 2002, France).

The Committee notes that it previously addressed the teaching of the national language to migrant workers and their families (most recently in the [Conclusions 2015](#)) and found it to be in conformity with the requirements of the Charter. It will focus in the present assessment on any changes or outstanding issues.

The report confirms that children of migrant workers are admitted to schools according to general procedure applied to all residents. Pupils who do not speak Lithuanian attend intensive additional language courses (in bridge classes, groups or by integrating pupils in mainstream education with individual assistance). Children attend this extra course for up to a year and study other subjects together with their peers. Furthermore, a school develops a plan for integration of a foreign student into school's community life, and if needed – individual education plan, with adaptation period established. If students know Lithuanian but during the adaptation period fail to achieve the satisfactory standard of knowledge and skills according to the individual programme drawn, they are also entitled to additional language courses or any necessary support.

Lithuanian language courses continue to be available for adult migrants. They are offered by different education providers such as universities, language schools and centres, NGOs and freelance teachers.

The Committee asks the next report to provide up-to-date data on migrant workers and their children attending Lithuanian language courses.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 19§11 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

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

It already examined the situation with regard to the right of workers with family responsibilities to equal opportunity and treatment (employment, vocational guidance and training, conditions of employment, social security, child day care services and other childcare arrangements) in its previous conclusion (Conclusions 2015). It will therefore only consider the recent developments and additional information.

Employment, vocational guidance and training

The Committee takes note of the law on the new Labour Code, which entered into force on 1 July 2017, and in particular Article 26, which establishes the principle of equality of persons subject to its provisions, irrespective of their marital or family status and their intention to have one or more children. The report states that the complex application of active labour market policy measures is suggested when vocational training is combined with supported employment measures.

The Committee notes from the report that Article 131(2) of the Labour Code provides that the employer shall assure their workers the right to return, after a special purpose leave, including maternity and paternity leave, to the same or equivalent position on conditions not less favourable to the previous working conditions.

Conditions of employment, social security

The Committee notes that, pursuant to Article 40(5) of the Labour Code, part-time work is possible without the consent of the employer, at the request of a pregnant woman, a woman who has just given birth or is nursing, as well as any worker who is raising a child under the age of three or who is a single parent raising a child under 14 years of age or a child with a disability under 18 years of age.

The report states that, as provided for in the Labour Code, employers have an obligation to take measures to help their workers, both men and women, to fulfil their family obligations, for example, through unpaid leave to meet family needs (Articles 137, 138); part-time work (Article 40); teleworking (Article 52); flexible and personalised working time arrangements; and other contractual variations, including work-sharing for workers with children.

Child day care services and other childcare arrangements

The Committee notes that, as Lithuania has accepted Article 16 of the Charter, measures taken to develop and promote child day care structures are examined under that provision.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 27§1 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 2 - Parental leave

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 27§2 of the Charter. Since the situation remains unchanged, it confirms its previous finding of conformity.

Conclusion

The Committee concludes that the situation in Lithuania is in conformity with Article 27§2 of the Charter.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

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

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 27§3 of the Charter.

The Committee notes that a new Labour Code came into force on 1st July 2017.

The Committee notes from the report that Article 61 of the Labour Code prohibits dismissal of employees during pregnancy and until the child reaches four months of age, during paternity leave, and that an employee raising a child under three years of age cannot be dismissed except when he or she has committed a fault. It further notes that, according to Article 57 of the Labour Code, in case of dismissal of an employee raising a child under 14 years old, the notice period is tripled.

The Committee recalls that according to the Appendix to the Revised European Social Charter, the notion of "family responsibilities" is to be understood as obligations in relation to dependent children and also other members of the immediate family who need care and support. The purpose of Article 27§3 of the Charter is to prevent these obligations from restricting preparation for and access to working life, exercise of an occupation and career advancement. Therefore, following the entry into force of the new Labour Code, it asks if employees are still protected against dismissal because of obligations with respect to other members of the immediate family (elderly parents, for example) that require care. It also asks that the next report provide more details on the circumstances which would violate the employers' interests and what constitutes a fault of the employee.

As regards effective remedies, the Committee refers to its conclusion under Article 8§2 of the Charter and considers that the situation is in conformity on this point.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Lithuania is in conformity with Article 27§3 of the Charter.

Article 31 - Right to housing
Paragraph 1 - Adequate housing

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

Criteria for adequate housing

The Committee previously noted that standards of "adequate housing" are defined in the Act of Construction of 1996 and the operational technical construction regulations which apply to all the housing stock (see Conclusions 2011, 2015 for details). It also took note of the relevant norms concerning health and safety of buildings, including the rules on exposure to lead and asbestos and the criteria defining the minimum useful floor space per capita. In the light of the information available on the adequacy of the housing stock, it requested (Conclusions 2015) updated information on the measures taken to improve the situation of inadequately housed population and the data available in this respect.

The information presented in the report does not allow an assessment of the progress made in terms of access to adequate housing, as defined under Article 31§1 of the Charter. The report refers in fact to measures taken to support low-income households in acquiring or renting housing (Law on State Support to Acquire or Rent Housing, which came into force in 2015), but it does not provide any updated information on the percentage of the population which lives in dwellings that possess all basic amenities, are safe in terms of exposure to specific dangers such as lead and asbestos, and are not overcrowded. According to the results of the most recent relevant survey, in 2011, 24-25% of dwellings were not yet equipped with hot water, lavatories or bathrooms/showers and the useful floor surface was, on average, 26.2m² per capita. These data do not cover however the reference period, and the next Population and Housing Census is scheduled to take place in 2021. Therefore, the Committee asks the next report to present comprehensive and up to date data on the percentage of population living in inadequate or overcrowded dwellings and the measures taken to improve their situation. Meanwhile, it reserves its position on this issue.

Responsibility for adequate housing

The State Territorial Planning and Construction Inspectorate, under the Ministry of Environment, carries out selective inspections to verify compliance with the required standards and issues binding decisions (see for details Conclusions 2005, 2011, 2015). However, the Committee could not establish whether an effective follow-up is ensured when shortcomings are found, apart from issuing a fine. As the report fails to provide the evidence requested in this respect (Conclusions 2011, 2015), the Committee asks the next report to provide updated data on the inspections carried out, the shortcomings found and the measures taken to ensure the adequacy of dwellings where shortcomings have been found. Meanwhile, it considers that it has not been established that the supervision of housing standards is adequate.

Legal protection

In response to the Committee's request for information on the procedural safeguards available to ensure the effectiveness of the right to adequate housing, the report refers to Article 5 of the Code of Civil Procedure, which enshrines the principle of universal accessibility to judicial protection, and to the relevant provisions of the Civil Code (Articles 6.249, 6.250, 6.251, 6.252) concerning the right to compensation for pecuniary and non-pecuniary damage. It also provides, as requested, information on the appeal procedure (Chapter XVI of the Code of Civil Procedure, see notably Articles 301, 305, 307, 310, 320, 329). The report does not contain, however, evidence that this legal framework ensures, in practice, adequate protection of the right to housing. The Committee had previously requested, to this effect, information on the affordability of legal remedies and the availability

of non-judicial remedies, such as administrative review (Conclusions 2011, 2015). It reiterates this request and reserves, meanwhile, its position on this issue.

Measures in favour of vulnerable groups

The Committee previously concluded that the measures taken by public authorities to improve the substandard housing conditions of most Roma were insufficient and that the situation was therefore not in conformity with Article 31§1 of the Charter (Conclusions 2011, 2015).

According to the latest survey, in 2011 (out of the reference period), there were 2115 Roma living in Lithuania, of which almost one third lived in Vilnius, mostly in the Kirtimai settlement (some 400 persons). Between 45% and 49% of Roma were living in inadequate dwellings, lacking hot water, lavatories, bathrooms/showers and, for 17% of them, access to water supply. 52% of Roma furthermore lived in dwellings where the living space was smaller than average, between 1 and 19m² per person. They were more often living in state or municipality-owned dwellings (14%, against a national average of 1.4%), as they were often victims of discrimination in access to rented private housing, 38% of Roma lived in social dwellings (against a national average of 1%). Their housing conditions were however different depending on the areas concerned.

The Committee notes from the report that an Action Plan for Roma Integration was adopted for 2015-2020, which involves the municipalities, Roma communities and the Roma Community Centre and is aimed at improving the housing conditions of Roma people, mainly through the provision of social housing, financed by the state, the municipalities and European Union funds. Within this Action Plan, the municipality of Vilnius adopted in 2016 a specific programme which aims at encouraging Roma families to leave the Kirtimai settlement by providing them with social housing or by subsidizing their rental costs in the private housing market. As a result of the programme, as of mid-2018 the number of Roma residents in the Kirtimai settlement (some 200 persons) had decreased by more than half compared to 2007.

The Committee takes stock of the progress made, but notes that the implementation of these measures is still under way (see also ECRI Conclusions on the implementation of the Recommendations in respect of Lithuania subject to interim follow-up, adopted in April 2019; Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Lithuania, adopted in May 2018; European network of legal experts in gender equality and non-discrimination, Country report 2018). It asks the next report to provide updated information in this respect. Meanwhile, it reserves its position on this point.

The report does not provide the information requested concerning the steps taken to improve the housing situation of refugees. In this connection, the Committee notes that persons granted asylum or subsidiary protection status are not entitled to social housing (European network of legal experts in gender equality and non-discrimination, Country report 2018) and had previously noted that they encountered difficulties in accessing suitable and affordable housing, due inter alia to the low level of benefit they could invest in renting (UNHCR 2013 report on Integration of refugees in Lithuania). It notes however that the support scheme (Resolution No. 998 regarding the state support allocated to beneficiaries of international protection) was increased in October 2017, through European Union funds, and asks the next report to provide updated information as regards access to adequate housing for refugees. Meanwhile, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 31§1 of the Charter on the ground that it has not been established that the supervision of housing standards is adequate.

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

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

Preventing homelessness

According to the latest data available, as reported by FEANTSA, in 2012 (out of the reference period) there were 4 957 homeless people, approximately half living in shelters for homeless people and half in crisis centres and shelters for mothers and children. At the end of 2013 (out of the reference period), 1 294 persons were registered as homeless in the Vilnius database. The Committee asks that updated information on the number of homeless persons be included in the next report.

The report indicates that, in order to prevent homelessness, the authorities have continued their efforts to promote access to social housing (see also Conclusions 2005, 2011, 2015, 2017) and refers in particular to the adoption of measures aimed at supporting low-income households in acquiring or renting housing (Law on State Support to Acquire or Rent Housing, which came into force in 2015 – see details in the report). In addition, cash social assistance is granted to poor residents to cover the cost of heating and water (Conclusions 2017, Article 13§1).

The Committee previously considered that the situation was not in conformity with Article 31§2 of the Charter on the ground that measures in place to prevent persons having lost their right to municipal subsidised housing from becoming homeless were inadequate (Conclusions 2011, 2015, 2017). The report explains however that under the Law adopted in 2015, as amended, individuals and families are deprived of the right to support for the rental of social housing only in those cases when their declared property or income exceeds the income or property entitlement threshold by more than 20%. Furthermore, individuals and families who lose entitlement to social housing due to their higher income are not automatically evicted but can continue renting the same housing at market prices. In view of the information provided, the Committee considers that the situation is in conformity with Article 31§2 on this point. It asks nevertheless the next report to provide updated information on the implementation of the abovementioned legislation and the results achieved in reducing homelessness.

Forced eviction

In its previous conclusions (Conclusions 2011, 2015, 2017) the Committee examined the legal framework of evictions and considered that the legal protection for persons threatened with eviction was not adequate. In particular, it questioned whether the law provided for the obligation to adopt measures to re-house or financially assist the persons evicted in case of eviction justified by the public interest. It noted that the law did not prohibit evictions in wintertime, although a suspension could be granted, upon request. It furthermore considered that the notice period before eviction was too short and requested further information on access to legal remedies against eviction and compensation in the event of illegal eviction (Conclusions 2017).

The Committee takes note of the rules on forced eviction in cases of insolvency or wrongful occupation (Articles 6.597, 6.610-6.613 of the Civil Code). It notes that an obligation to rehouse the persons concerned applies in case of eviction for reasons of public interest, i.e. notably when the dwellings are unfit for habitation and when they are being demolished, reconstructed or repurposed (as per Articles 6.615-6.617 of the Civil Code). It considers that the situation is in conformity with Article 31§2 on this point.

The report indicates that the bailiff can, on his/her own initiative or at the request of the parties defer or stop the enforcement of the eviction, for example if the occupant is sick. The eviction can also be suspended by order of the court seized of an appeal, although the

lodging of an appeal as such has no automatic suspensory effect. The Committee asks the next report to clarify whether in case of suspension of the eviction, by the bailiff or the court, the eviction needs nevertheless to be carried out between 30 and 45 days after the order has been issued. Meanwhile, it defers its conclusion on this point.

The Committee recalls that, in order to be in conformity with the Charter, the law must prohibit evictions to be carried out during the winter period. As the situation has not changed in this respect, the Committee considers that it is not in conformity with Article 31§2 on this point.

The Committee takes note of the information provided on the appeal procedure against eviction, the granting of temporary protective measures and of Legal Aid (Articles 594 and 510 of the Code of Civil Procedure, Article 12 of the Law on State-guaranteed Legal Aid). It notes that courts, when dealing with cases of eviction, refer to the case-law of the European Court of Human Rights and assess the proportionality of the eviction measure (Supreme Court of Lithuania, Order of 17/10/2006 in the civil case No. 3K-3-524/2006). As regards compensation, the report indicates that the failure to appeal against eviction does not entail a loss of the right to claim compensation for any harm caused by the illegal actions of a bailiff (Article 510 of the Code of Civil Procedure). The Committee considers that the situation is in conformity with Article 31§2 on this point. It asks nevertheless the next report to present updated information on the number of evictions ordered and appealed.

Right to shelter

In its previous conclusions (Conclusions 2015, 2017) the Committee found that it had not been established that the right to shelter was adequately guaranteed.

The report merely refers in this respect to the municipalities' responsibility to provide social services, in accordance with the Law on Social Services, including shelters for the homeless. It does not provide however any further details concerning the number of shelters, the number of persons applying for shelter compared to the number of persons hosted there, the quality of shelters (security, health and hygiene standards), whether any person can stay in shelters regardless of their nationality or residence status, whether alternative accommodation is provided in case of eviction from shelters. The Committee asks the next report to provide the information requested and considers in the meantime that the right to shelter is not adequately guaranteed.

Conclusion

The Committee concludes that the situation in Lithuania is not in conformity with Article 31§2 of the Charter on the grounds that

- the law does not provide for the prohibition of evictions in wintertime;
- the right to shelter is not adequately guaranteed.