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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2019

LATVIA

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 Latvia on 26 March 2013. The time limit for submitting the 5th report on the application of this treaty to the Council of Europe was 31 October 2018 and Latvia submitted it on 7 May 2019.

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).

Latvia has accepted all provisions from the above-mentioned group except Articles 19§2, 19§3, 31§2 and 31§3.

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

The present chapter on Latvia concerns 32 situations and contains:

– 22 conclusions of conformity: Articles 7§1, 7§2, 7§3, 7§4, 7§6, 7§7, 7§8, 7§9, 8§1, 8§3, 8§4, 8§5, 19§1, 19§4, 19§5, 19§7, 19§9, 19§11, 19§12, 27§1, 27§2 and 27§3;

– 6 conclusions of non-conformity: Articles 7§5, 16, 17§1, 19§6, 19§10 and 31§1

In respect of the other 4 situations concerning Articles 7§10, 8§2, 17§2 and 19§8, 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 Latvia under the Revised Charter. The Government consequently has an obligation to provide this information in the next report from Latvia on the articles in question.

The next report from Latvia 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 Latvia.

The Committee previously noted (Conclusions 2015) that according to Article 37 (1) of the Labour Law, it is prohibited to employ children under the age of 15, or who have not attained basic education, in permanent work. As an exception, according to Article 37 (2) of the Labour Law, children from the age of 13 may be employed outside of school hours for performing light work not harmful to the safety, health, morals and development of the child. The Committee notes from the information provided in the report submitted by Latvia that there have been no changes to the legal situation which it has previously found to be in conformity with Article 7§1 of the Charter (Conclusions 2015).

In its previous conclusion (Conclusions 2015), the Committee noted that the performance of the work of a domestic is listed among the activities permitted for children from the age of 13. It recalled that domestic work and work within the family also come within the scope of Article 7§1 of the Charter and asked the next report to indicate how the authorities monitor work done at home by children and domestic work and which are the findings in this respect.

In this respect, the current report indicates that if domestic work and work done at home by children are performed as employment legal relationships, the State Labour Inspectorate (SLI) has the right to control the fulfilment of the requirements of the Labour Law. According to the report, inspections can be carried out if the SLI receives any information on the violations. However, to date, the SLI has not received any complaints on cases concerning domestic work or work done at home by children.

The Committee asks the next report to provide up-to-date information on inspections carried out by the State Labour Inspectorate in cases of domestic work and work done at home by children as part of an employment legal relationship. It also asks the next report to indicate whether the State Labour Inspectorate has the competence to conduct inspections in cases of domestic work and work done at home by children outside the scope of an employment contract and, if not, to indicate how such work is monitored in practice.

As regards monitoring child labour, in its previous conclusion (Conclusions 2015) the Committee asked the next report to provide information on the activities and findings of the Labour Inspectorate of monitoring the prohibition of employment under the age of 15 and whether the conditions for involving children in light work from the age of 13 are met. The Committee further requested information on the violations detected and sanctions applied in practice by the State Labour Inspectorate regarding the illegal employment of children.

The current report indicates that over the years 2014-2017 the State Labour Inspectorate (SLI) issued 417 permits for the employment of children, according to the Regulation of the Cabinet of Ministers No. 205 of 28 May 2002 "Procedures for issuing permits for employment of children as performers in cultural, artistic, sporting and advertising activities, and restrictions to be included in permits". The report indicates that violations of such regulation have not been detected during the reference period; hence no administrative penalties were applied.

As for the Regulation of the Cabinet of Ministers No. 10 of 8 January 2002 "Regulations regarding work in which employment of children from the age of 13 is permitted", the SLI detected only two violations during the reference period and no administrative penalties have been imposed in such cases.

As regards the violations detected and sanctions applied in practice by the State Labour Inspectorate regarding the illegal employment of children, the current report indicates that the SLI detected 28 children working illegally in 2014, 17 in 2015, 33 in 2016 and 36 in 2017. As a consequence, 22 administrative penalties and two verbal warnings were imposed in 2014, 14 administrative penalties and one verbal warning in 2015, 26 administrative

penalties and two verbal warnings in 2016; 30 administrative penalties and four verbal warnings in 2017.

Moreover, the report indicates that the number of victims under the age of 18 of accidents at work was five in 2014, five in 2015, four in 2016 and five in 2017.

The Committee asks the next report to provide up-to-date information on the monitoring activities and findings of the State Labour Inspectorate regarding the regulations concerning the employment of children from the age of 13. It also asks the next report to provide disaggregated data on activities and findings of the Labour Inspectorate with specific regard to the illegal employment of children under the age of 15, including the number of inspections conducted, the number of violations detected and the sanctions imposed in practice in cases of violation.

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

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia is in conformity with Article 7§1 of the Charter.

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 Latvia.

The Committee previously noted (Conclusions 2015) that Article 37 (4) of the Labour Law provides that it is prohibited to employ adolescents between the ages of 15 and 18 in jobs in special conditions which are associated with increased risk to their safety, health, morals and development. It further noted that the Regulation of Cabinet of Ministers No. 206 of 28 May 2002 prescribes a list of types of hazardous works which are prohibited for adolescents. As an exception, Section 3 of the same regulation provides that such employment is admissible if it is related to vocational training of the adolescent, if the work is performed in the direct presence of a supervisor or a trusted representative, and if compliance with regulatory enactments related to labour protection has been ensured.

The Committee notes from another source (Direct Request (CEACR) – adopted 2011, published 101st ILC session (2012)) that “young persons usually complete the acquisition of basic education in Latvia at 16 years of age and therefore would only be eligible to engage in the types of work usually prohibited for adolescents (i.e. hazardous work) from the age of 16 years”.

In its previous conclusion (Conclusions 2015), the Committee asked information on activities of the State Labour Inspectorate of monitoring the exceptional cases when employment in dangerous or unhealthy activities is permitted in connection with vocational training of the adolescent.

In this respect, the current report indicates that over the years 2014-2017 the SLI has not detected any violations of Section 3 of the Regulation of Cabinet of Ministers No. 206 of 28 May 2002. It further indicates that SLI has a right to control the fulfilment of the requirements of the labour protection for the work place, fire safety and sanitary hygiene norms, especially in cases when an accident has occurred at the work place or an application on violation has been submitted to the SLI. The Committee asks the next report up-to-date information on monitoring activities and findings of the State Labour Inspectorate with regard to the exceptional cases when employment in dangerous or unhealthy activities is permitted in connection with vocational training of the adolescent.

In its previous conclusion (Conclusions 2015), the Committee recalled that the situation in practice should be regularly monitored and asked the next report to provide information on the activities and findings of the State Labour Inspectorate in relation to the prohibition of employment under the age of 18 for dangerous or unhealthy activities and the exceptions permitted, including the number of violations detected and sanctions applied.

In this respect, the report indicates that the SLI detected 3 violations in 2014, 5 in 2015, 4 in 2016 and 5 in 2017. According to the report, the violations referred to Paragraph 4, 5 and 6 of Article 37 of the Labour Law, concerning respectively the prohibition to employ adolescents in jobs in special conditions which are associated with increased risk to their safety, health, morals and development, the duty of the employer to inform the parent of the adolescent regarding the assessed risk of the working environment and the labour protection measures at the workplace, the obligation to conduct a prior medical examination before hiring an adolescent. Following the inspections, 2 administrative penalties were imposed by the SLI in 2014, 4 in 2015, 2 in 2016 and 5 in 2017.

The report also indicates that the number of accidents at work registered by the SLI were 5 in 2014, 5 in 2015, 4 (out of which 1 considered serious) in 2016 and 5 (out of which 1 considered serious) in 2017.

The Committee asks the next report to provide up-to-date information on the activities and findings of the State Labour Inspectorate in relation to the prohibition of employment under

the age of 18 for dangerous or unhealthy activities and the exceptions permitted, including the number of inspections conducted, the number of violations detected and sanctions applied.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

The Committee refers to its conclusion on Article 7§1 where it noted that according to Article 37 (1) of the Labour Law it is prohibited to employ children under the age of 15 or who have not attained basic education in permanent work. As an exception, according to Article 37 (2) of the Labour Law children from the age of 13 may be employed outside of school hours for performing light work not harmful to the safety, health, morals and development of the child.

The Committee previously examined the legislation concerning working time for children who have reached the age of 13 and concluded that the situation was in conformity with the Charter (Conclusions 2015). The Committee notes from the information provided in the report submitted by Latvia that there have been no changes to the legal situation.

The Committee previously noted that basic education should be completed between the ages of 14 and 16 (Conclusions 2015).

In its previous conclusion, the Committee asked the next report to indicate whether children who are still in compulsory education benefit of two consecutive weeks free from any work during the summer holidays. The current report indicates the distribution of holidays during the school year and the duration of the summer holidays (June-August). However, the report does not indicate whether during the summer holidays children who are still in compulsory education benefit of two consecutive weeks free from any work. Therefore the Committee reiterates its question and underlines that that should the next report not provide the information requested, there would be nothing to establish that the situation is in conformity with Article 7§3 of the Charter.

In its previous conclusion (Conclusions 2015), the Committee asked the next report to provide information on the activities and findings of the State Labour inspectorate, including violations detected and sanctions imposed, in relation to work performed by children who are still subject to compulsory education.

The Committee refers to its conclusion on Article 7§1 where it noted that over the years 2014-2017 the State Labour Inspectorate (SLI) issued 417 permits for the employment of children, according to the Regulation of the Cabinet of Ministers No. 205 of 28 May 2002 "Procedures for issuing permits for employment of children as performers in cultural, artistic, sporting and advertising activities, and restrictions to be included in permits". The report indicates that violations of such regulation have not been detected during the reference period; hence no administrative penalties were applied.

As for the Regulation of the Cabinet of Ministers No. 10 of 8 January 2002 "Regulations regarding work in which employment of children from the age of 13 is permitted", the SLI detected over the reference period only 2 violations and no administrative penalties have been imposed in such cases.

As regards the violations detected and sanctions applied in practice by the State Labour Inspectorate with regard to the illegal employment of children, the current report indicates that the SLI detected 28 children working illegally in 2014, 17 in 2015, 33 in 2016 and 36 in 2017. As a consequence, 22 administrative penalties and 2 oral admonishments were imposed in 2014, 14 administrative penalties and 1 oral admonishment in 2015, 26 administrative penalties and 2 oral admonishments in 2016; 30 administrative penalties and 4 oral admonishments in 2017.

The Committee asks the next report to provide up-to-date information on the monitoring activities and findings of the State Labour Inspectorate with specific regard to children still subject to compulsory education, including the number of inspections conducted, the number of violations detected and the sanctions imposed in practice in cases of violation.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia is in conformity with Article 7§3 of the Charter.

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 Latvia.

The Committee previously noted that according to Article 132 (3) of the Labour Law, adolescents between the ages of 15 and 18 who are not subject to compulsory education may not be employed for more than seven hours a day and more than 35 hours a week (Conclusions 2015). It further noted that according to Article 132 (4) of the Labour Law if persons who are under 18 years of age continue to, in addition to work, acquire primary education, secondary education or an occupational education, the time spent on studies and work shall be summed and may not exceed seven hours a day and 35 hours a week (Conclusions 2015). It further noted that if persons who are under 18 years of age are employed by several employers, the working time shall be summed (Conclusions 2015).

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

As regards vocational training, the report indicates that the Regulation of the Cabinet of Ministers No. 484, adopted on 15 July 2016, "Procedures by which work-based learning is organized and implemented" states that the education institution organizes and implements work-based learning for students who follow an individual work-based learning plan at a merchant, institution, association, foundation, natural person registered as a performer of economic activity, and also an individual merchant including a farm or fishing undertaking and other performers of economic activity in conformity with a licensed vocational education programme after completion of which the vocational qualification is acquired. According to the report, the learning load during one week of vocational education programme may not exceed 36 hours for students under 18 years old.

In its previous conclusion (Conclusions 2015), the Committee recalled that the situation in practice should be regularly monitored and asked the next report to provide information on the activity of the State Labour Inspectorate, its findings and sanctions imposed in cases of violation of the applicable ruled to reduced working time of young workers who are no longer subject to compulsory education.

In this respect, the current report indicates that the number of violations of the legislation concerning reduced working time for young persons detected by the State Labour Inspectorate was 1 in 2014, 1 in 2015, 1 in 2016 and 2 in 2017. Following the findings, the State Labour Inspectorate imposed 2 administrative penalties in 2017, whereas no penalties were imposed over the years 2014-2016.

The Committee asks the next report to provide up-to-date information on activities and findings of the State Labour Inspectorate with regard to the legislation on reduced working time of young workers who are no longer subject to compulsory education, including the number of inspections conducted, the number of violations detected and the sanctions imposed in practice.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

In application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances. This right may result from statutory law, collective agreements or other means.

The “fair” or “appropriate” character of the wage is assessed by comparing young workers’ remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above) (Conclusions XI-1 (1991), United-Kingdom).

Young workers

The Committee recalls that the young worker’s wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly (Conclusions II (1971), Statement of interpretation on Article 7§5). For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable. For sixteen/eighteen year-olds, the difference may not exceed 20% (Conclusions 2006, Albania).

Under Article 7§5 the Committee examines if young workers are paid the equivalent of 80% of a minimum wage in line with the Article 4§1 fairness threshold (60% of the net average wage). Thus, if young workers’ wage amounts to 80% of the minimum threshold required for adult workers (60% of the net average wage), the situation would be in conformity with Article 7§5 (Conclusions XVII-2, 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. Since Latvia has not accepted Article 4§1 of the Charter, the Committee makes its own assessment on the adequacy of young workers wage under Article 7§5. For this purpose, the ratio between net minimum wage and net average wage is taken into account.

The report indicates that in 2015 the minimum monthly salary within the scope of normal working time was EUR 360 and the minimum hourly wage rate for adolescents was 2,477 €. the minimum monthly wage within the scope of normal working time was 370 € in 2016 and in 2017 380 €.

The Committee notes from the information provided in the former report that the remuneration of adolescents (defined as persons between the ages of 15 and 18 who are not subject to compulsory education) was at the same level as the adult workers’ wage. In order to assess on the conformity of the situation with the Charter, the Committee had requested information on net values of both minimum and average wages for the relevant reference period. The Committee underlined that it requests information on the net values, that is, after deduction of taxes and social security contributions. Net calculations should be made for the case of a single person.

The report only contains information on gross average monthly wages. For 2017, the gross annually average monthly wage was 926 €. According to Eurostat, the annual net earnings of a full-time single worker without children earning an average wage was 10,649.40 €, which by month would be 887.45 €. Taking into account that the report established that for 2017 the minimum wage was 380 € and that workers under 18 years old earn the same as adult workers, this amount represents 42% of the net average monthly earnings, and it is well below the required threshold of 48%. The Committee therefore considers that the situation in Latvia in this respect is not in conformity with the Charter.

Apprentices

The Committee recalls that apprentices may be paid lower wages, since the value of the on-the-job training they receive must be taken into account. However, the apprenticeship system must not be deflected from its purpose and be used to underpay young workers. Accordingly, 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 does not provide any information on the allowances paid to apprentices during the reference period. The Committee previously asked whether there is a legal framework on the status of apprentices in Latvia. In order to assess the conformity of the situation with Article 7§5 of the Charter, the Committee requested to be provided with the net values of the allowances paid to apprentices (after deduction of social security contributions) at the beginning and at the end of the apprenticeship. Pending receipt of the information requested, the Committee reserves its position on this point. Should the next report not contain the information requested, there will be no information in order to establish that the situation in Latvia is in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Latvia is not in conformity with Article 7§5 of the Charter because the minimum wage paid to young workers is not fair.

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 Latvia.

The Committee recalls that in application of Article 7§6, time spent on vocational training by young people during normal working hours must be treated as part of the working day (Conclusions XV-2 (2001), Netherlands). Such training must, in principle, be done with the employer's consent and be related to the young person's work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked (Conclusions V (1977), Statement of interpretation on Article 7§6). This right also applies to training followed by young people with the consent of the employer and which is related to the work carried out, but which is not necessarily financed by the latter.

The report indicates that there have been no changes to the situation, which the Committee had previously found to be in conformity with Article 7§6 of the Charter. The Committee asked previously confirmation that the time spent on training by workers under 18 years old is thus remunerated as normal working time. It reiterates this question for the next report.

The Committee recalls that the situation in practice should be regularly monitored. The report states that the State Labour Inspectorate has detected one violation in 2016 and one in 2017 in relation to the inclusion of time spent on vocational training in the normal working time. However, there has not been any administrative penalty. The Committee asks that the next report provide information on the activity and findings of the State Labour Inspectorate specifically concerning the inclusion of time spent on training in normal working time, as well as on the number of inspections conducted.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

The Committee recalls that in application of Article 7§7, young persons under 18 years of age must be given at least four weeks' annual holiday with pay. The arrangements which apply are the same as those applicable to annual paid leave for adults (Article 2§3). For example, employed persons of under 18 years of age should not have the option of giving-up their annual holiday with pay; in the event of illness or accident during the holidays, they must have the right to take the leave lost at some other time.

The Committee takes note of the information contained in the report submitted by Latvia, which indicates that there have been no changes to the situation and that it had previously found to be in conformity with Article 7§7 of the Charter (Conclusions 2015, Latvia, Article 7§7). The Committee asked previously confirmation that the right to paid annual holidays cannot be waived by young persons under 18, in exchange for additional pay. It also asked whether young workers who suffer from illness or temporary incapacity during their holiday are entitled to take the days lost at another time. There is no information on the report on this respect, and therefore the Committee reiterates its question for the next cycle.

The report states that there is no statistical information on detected violations regarding annual paid leave granted to persons under 18 years of age. The Committee recalls that the situation in practice should be regularly monitored and asks that the next report provide information on the activity and findings of the State Labour Inspectorate in relation to the paid annual holidays of young workers under 18.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

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

The Committee asked in its previous cycle (Conclusions 2015) whether exceptions are made with regard to certain occupations or sectors and, if this is the case, which is the number/proportion of young workers concerned by such derogations. There is no information on this point, so the Committee reiterates its question.

The Committee recalls that the situation in practice should be regularly monitored. The report states that there is no statistical information on detected violations on night work of persons under 18 years of age. The Committee reiterates its question that the next report provides information on the activity of the State Labour Inspectorate, its findings and sanctions imposed in relation to possible illegal involvement of young workers under 18 in night work.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

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§9 of the Charter.

The Committee asked previously how the medical examinations of young workers are organised in practice. The report states that young workers' medical examinations' organised in practice are done in accordance with the Labour Law, which states that persons below 18 years of age shall be employed only after a prior medical examination and they shall, until reaching the age of 18, undergo a mandatory medical examination once a year. All children (below the age of 18) in Latvia have prophylactic check-up visits at their General Practitioner (hereinafter – GP), where GP assesses the child's health and addresses the prevention issues (for instance, vaccination). During and after check-up visit GP carries out activities in accordance with the child's state of health and medical indications, for example, gives a referral to visit a specialist. There are also mandatory health examinations for those employees whose state of health is affected by or may be affected by factors of the working environment harmful to health, and those employees who have special conditions at work. A health examination is performed by the Doctor of Occupational Diseases according to the Regulations of the Cabinet of Ministers No. 219 of March 10, 2009.

The Committee recalls that the situation in practice should be regularly monitored. The report states that the State Labour Inspectorate found a total of 12 violations during the period of reference and 9 administrative penalties were imposed. The Committee also asks that the next report provide information on the activity and findings of the State Labour Inspectorate in relation to the medical examination of young workers under 18.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

Protection against sexual exploitation

The Committee previously asked (Conclusions 2015) whether the law criminalises all acts of sexual exploitation of children, including simple possession of child pornography depicting children up to the age of 18 years.

In response, the report states that the Law on the Protection of the Rights of the Child has been amended in order to increase the level of protection accorded children. Following the amendment of 25 November 2015 all persons under the age of 18 are considered as a minor under the criminal law and the law on administrative violations.

With regard to child pornography, the simple possession of pornographic material is criminalised, regardless of the age of the minor seen in the material. Article 1 §§1, 1.1 and 2 of the Law on Pornography Restrictions do not divide minors into sub-categories which, would allow a person to possess any pornographic material containing depictions of minors between the ages of 16 and 18.

The Committee notes from the Concluding Observations of the Committee on the Rights of the Child on the report submitted by Latvia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/LVA/CO/1, 2016) that there are allegations that girls are involved in highway prostitution for long-distance drivers and that there have been cases of child prostitution in Riga, including in exchange for entertainment and gifts, and that police officers may cover up the perpetrators of child prostitution in exchange for payment.

It also refers to the Report of GRETA concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia (2017) indicating that because the age of sexual consent in Latvia is 16 years, children above this age involved in prostitution may be treated as offenders.

The Committee 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 Latvia. It also requests information on the extent of sexual exploitation of children and measures taken to address the problem.

Protection against the misuse of information technologies

The Committee asked in its previous conclusion (Conclusions 2015) for full information concerning supervisory mechanisms and sanctions for sexual exploitation of children through the information technologies. It further asked whether legislation or codes of conduct for Internet service providers is foreseen in order to protect children.

In response, the report indicates that any sexual exploitation of children through information technologies is criminalised under Article 162 of the Criminal Law ("Leading to depravity") and Article 162(1) (Encouraging participation in sexual acts).

In order to promote the safety of children online, the Latvian Safer Internet Centre (established by the Latvian Internet Association in 2006) continues its work. Web page hosts in Latvia must act in conformity with the Law on Restriction of Pornography, which allows for the blocking of illicit content relating to child pornography. The NGO "Safe Net" provides assistance when it is necessary to block the content of a website whose servers are located outside Latvia.

The Committee notes from the report of GRETA mentioned above that the Police Anti-Trafficking Unit is working to prevent the recruitment of victims of human trafficking through the Internet and investigates trafficking offences committed in this way.

The Committee asks for information on any new measures taken to protect children against the misuse of information technologies.

Protection from other forms of exploitation

The Committee notes from the report of GRETA mentioned above that a total of eight child victims of trafficking have been identified in Latvia in 2012-2016 (seven Latvian girls trafficked for the purpose of sexual exploitation within Latvia and a Lithuanian boy trafficked to Latvia for the purpose of forced criminality).

The Committee notes that Latvia, as a member of the Expert Group on Children at Risk of the Council of the Baltic Sea States (CBSS), has participated in a number of international projects: five expert meetings to discuss the state of transnational child protection (2014-2015), international training activities for professionals working with unaccompanied children (2016-2018), « Non-Violent Childhoods » programme (2017-2018), a series of workshops under the project « PROMISE » (2015-2017) and « PROMISE II » (2018-2019).

In its previous conclusion (Conclusions 2015), the Committee asked to be informed about the implementation of the Law on the Protection of the Rights of the Child in relation to children in street situations. It notes from the report that amendments of 2 March 2017 mandated the Cabinet of Ministers to draw up provisions for organising the cooperation of institutions to ensure the protection of the rights of the child. The Committee asks that the next report provide updated information on the assistance provided to children in street situations.

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.

The Committee notes, from the Concluding observations of the UN Committee on the Rights of the Child mentioned above, that Latvia does not have programmes specifically targeting children in vulnerable and marginalised situations and that there are insufficient mechanisms to identify and monitor children at risk of exploitation, such as girls who are victims of sexual and domestic violence, children living in institutions, children living in remote areas and children living in poverty, minority children, children of migrants and asylum seekers and children left behind by parents seeking work abroad.

The Committee asks what measures have been taken to protect and assist children in vulnerable situations, with particular attention to children at risk of child labour, including those in rural areas.

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 Latvia.

Right to maternity leave

The report states that there have been no changes to the legal framework concerning maternity leave during the reference period: under Article 154 of the Labour Law, the total length of maternity leave is 112 calendar days (56 days of pregnancy leave and 56 days of maternity leave), including a compulsory period of two weeks before and two weeks after childbirth. The Committee required that the next report indicate the proportion of women taking less than 42 days of postnatal paid leave.

In reply, the report outlines the proportion of women who took less than 42 days of postnatal paid leave (2.3% in 2014, 3.4% in 2015, 3.2% in 2016 and 2.5% in 2017). The Committee refers to its previous conclusion (Conclusions 2015) for a description of the existing legal safeguards in order to avoid any undue pressure on employees inciting them to shorten their maternity leave. However, it notes from the report, the findings of a study carried out by the Ombudsman of the Republic of Latvia in 2017: "Observance of discrimination prohibition principle in work legal relations against parents of small children". The study shows that, although the female respondents were mostly able to go on maternity leave in due time (30th – 32nd week), there were cases where employees went on maternity leave later for various reasons such as: no replacement for the employee could be found; the employer did not allow the employee to leave; it was necessary to finish the tasks and assignments that had been started; the employee was afraid of losing her position; the employee had to come to her workplace to give instructions to her replacement. The Committee requests that the next report contain comments on these observations.

In its previous conclusion (Conclusions 2015), the Committee also asked that the next report provide information on any relevant examples of case-law following discrimination complaints based on pregnancy or maternity leave, and on who the burden of proof falls in such cases. The report states that the Ombudsman of the Republic of Latvia instituted several procedures related to discrimination during the reference period, including verification procedures relating to discrimination because of maternity (2 in 2014 and 2015, 1 in 2016). Two of them led to findings of violation in 2014, and one in 2015. The Committee notes that Article 29 of the Labour Law provides for the shift of burden of proof onto the employer in discrimination cases. The same provision explicitly provides that any less favourable treatment on the grounds of pregnancy and maternity is direct discrimination based on sex.

The report confirms that the same rules apply to women employed in the public sector.

Right to maternity benefits

There have been no changes in the situation which the Committee previously considered to be in conformity with the Charter (Conclusions 2015): according to the Law on Maternity and Sickness Insurance, all employed women are entitled to maternity benefit, which is paid before and after childbirth for a maximum of 140 days (56 or 70 days before and after childbirth). The amount of the benefit is equal to 80% of the average gross pay on which insurance contributions have been paid over a period of 12 calendar months. This 12-month period ends two months before the month when the pregnancy leave begins. The maternity benefit is paid in two instalments during the whole period of maternity leave. According to the report, there are no upper or lower limits on the amount of the benefit paid. The report confirms that the same rules apply to women employed in the public sector.

According to a report from the European Equality Law Network – Country report on gender equality, Latvia, 2018, if a person was not insured (was on unpaid leave or was unemployed,

and therefore did not pay social security contributions) during the period taken into account for the calculation of maternity allowance, the allowance must be calculated on the basis of an income amounting to 70% of the national average social insurance contributions. Consequently, that employee is nevertheless entitled to maternity benefit in the amount corresponding to the national average salary.

In its previous conclusion, 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 income was €6,607 in 2017, or €550.6 per month. 50% of the median equivalised income was €3,305.5 per year, or €275.3 per month. The gross minimum monthly wage was €380 in Latvia (80% of the gross minimum monthly wage is €304). In view of the above, the Committee considers that the situation is in conformity with Article 8§1 in this respect.

Conclusion

The Committee concludes that the situation in Latvia 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 Latvia.

Prohibition of dismissal

In its previous conclusions (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§2 of the Charter with regard to the prohibition of dismissal of a woman during her pregnancy or maternity leave, and asked for updated information on this point.

In reply, the report states that under Article 109§1, of the amended Labour Code (which came into force on 1 January 2015), employers may not dismiss employees during pregnancy, nor during the year following childbirth, nor while a woman is breastfeeding (until the child turns two).

Furthermore, according to the report, Article 101§1, subparagraph 11, was amended during the reference period. It provides that employers are entitled to give written notice of the termination of an employment contract only on grounds connected with the employee's conduct or skills, or with economic, organisational, technological measures or of a similar nature within the company, in the following cases: the employee does not perform her work owing to temporary incapacity for an uninterrupted period of more than six months, or for a total of more than one year over a three-year period if interrupted (this does not include the periods of prenatal leave, maternity leave or incapacity connected with work-related injury or occupational disease).

The Committee asks again for a description in the next report of any case law on requests for reinstatement following alleged dismissals of employees during pregnancy or maternity leave under Article 101§1 of the Labour Code. The Committee points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Latvia is in conformity with Article 8§2 of the Charter in this respect.

Redress in case of unlawful dismissal

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§2 of the Charter on this point. It also asked in its previous conclusions (Conclusions 2015 and 2011) whether the same legal arrangements for obtaining redress in the event of unlawful dismissal applied to public sector employees, particularly those on fixed-term contracts. The report does not provide the information requested, so the Committee repeats its question. It points out that, should the necessary information not be provided in the next report, nothing will enable the Committee to establish that the situation in Latvia is in conformity with Article 8§2 of the Charter in this respect.

The Committee notes from the report that 1,174 applications for reinstatement were made to the courts during the reference period. The number of such cases settled by courts of first instance decreased from 230 to 101 over the same period. However, according to the report there are no statistics on the number of applications for reinstatement relating specifically to employees dismissed during pregnancy or maternity leave.

Conclusion

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

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 Latvia.

It was previously noted that Article 146 of the Labour Law provided that additional breaks of at least 30 minutes (one hour in case of two or more children under the age of 18 months) every three hours should be granted, upon request, to nursing employees until the child was 18 months old. Breaks for feeding a child are considered as working time and therefore remunerated as such.

In response to the Committee's question, the report confirms that the same regime applies to women employed in the public sector.

The Committee asks what rules apply to women working part-time.

Conclusion

The Committee concludes that the situation in Latvia 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 Latvia.

In its previous conclusion (Conclusions 2015), the Committee concluded that the situation was in conformity with Article 8§4 of the Charter. It noted that under Article 138 of the Labour Law, it is prohibited to employ at night pregnant women and women having given birth for a period of up to one year following childbirth which can be extended, upon medical certification, to the whole nursing period. An employee who has a child under three years of age may be employed at night only with his or her consent.

In response to the Committee's question, the report confirms that the same rules apply to women employed in the public sector.

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 and that in case of exemption from work 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

The Committee concludes that the situation in Latvia 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 Latvia.

In its previous conclusion (Conclusions 2017), the Committee concluded that the situation was in conformity with Article 8§5 of the Charter and asked whether the same protection applied to women employed in the public sector.

The report states that there have been no changes to the legal framework during the reference period. However, Cabinet of Ministers Regulation No. 660 of 2 October 2007 was amended on 7 April 2015 (the amendments came into force on 1 June 2015). The Committee notes that the Regulation in question is still sufficiently detailed for the purposes of Article 8§5 and therefore reiterates its finding of conformity in this regard.

The Committee notes from the report that the same rules apply to women employed in the public sector.

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. In this respect, the Committee 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 and that in case of exemption from work 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 posts at the end of the protected period.

Conclusion

The Committee concludes that the situation in Latvia 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 Latvia. It also takes note of the comments made by the "Association of owners of apartments and tenants of denationalized and municipal housing" and FIDH Latvian Human Rights Committee.

Legal protection of families

Rights and obligations, dispute settlement

As regards **rights and obligations of spouses**, the Committee previously noted that the Constitution and the Latvian civil law provide for the protection and support of marriage, family, rights of parents, rights of children and equal status of spouses. It also refers to the previous conclusions as regards the equality of spouses in relation to their property (Conclusions XVII-2 (2005)). Issues related to **restrictions to parental rights and placement of children** are examined under Article 17§1.

As regards the procedures available for the **settlement of disputes**, the Committee refers to its previous conclusions (Conclusions 2015 and XIX-4(2011)), where it took note of the rules governing divorce before a court or before a notary. The report provides additional details concerning the provision of legal aid, upon condition of resources, in accordance with the provisions of the State Legal Aid Law.

In response to the Committee's question, the report indicates that **mediation services** have been established, in accordance with the Mediation Law which entered into force in June 2014. The model of mediation recommended by the court in civil proceedings came into effect on 1 January 2015, state-certified mediators have been appointed and a new representative body – the Council of Certified Mediators – has been set up. According to the Mediation Law this service is accessible to every person on their free agreement for fee. Two pilot projects have been implemented respectively from 2016 and 2017. The first one concerns the provision of one hour free consultation to any court users interested in learning about possibilities to use mediation in view of solving their disputes (in a number of Latvian courts); the second one provided up to 5-hours free mediation services to 291 families with minors. These projects are being continued in 2018.

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 Latvia has not ratified the Istanbul Convention yet.

The Committee takes note of the statistical data provided in the report concerning domestic violence against women and children in 2016 and asks for updated data in the next report.

In response to the Committee's question (Conclusions 2015) on the prevention measures enacted, the report indicates that compulsory training on domestic violence is provided to specialists, including police officers, social workers, judges, prosecutors, etc. According to the report, particular attention is paid to strengthening multi-disciplinary specialist teams at local government level that are able to effectively intervene in cases of domestic violence. The report also provides details of a project implemented during the reference period ("*Awareness-raising Campaign on Zero Tolerance of Violence against Women – Violence*

likes silence"), as a result of which a higher percentage of the population (75% of the population, compared to 68% previously) considers that domestic violence is not acceptable. In addition, the report states that work is going on with media representatives, and informative materials for victims and bystanders is being distributed.

The report also explains that, in the framework of another project ("*ONE STEP CLOSER: Coordinated Community Response to Violence Against Women*"), a new multi-disciplinary victim centred institutional cooperation model for cases of violence against women (VAW) – Coordinated Community Response (CCR) has been developed and tested in some local governments. According to the report, the new tools allow the professionals to systematically assess the violence risk, to recognize different forms of violence, teach more respectful attitude towards the victims, ensure that victims are being interviewed separately from the perpetrator and receive documental proves to use in the further court proceedings, prevent revictimization etc. As a result, the protection of victims is also improved and allows to provide support faster – the report states that more than 300 professionals have been mentored to use the risk assessment tools and protocol, and to map appropriate interventions and at least 250 victims have had their cases handled by the trained professionals using the designed tools. More than 300 000 copies of informative material with easy-to-use information for victims and 170 000 copies of informative materials for bystanders have been printed and partly distributed. Based on the assessment of the results of this project, new legislation is being prepared. The Committee asks the next report to continue to provide information on the implementation of the project.

The report further indicates that, end of March 2014, regulations on immediate restraining orders and court protection orders entered into force. In case of violation of this restraining order, the perpetrator incurs criminal liability. During the reference period, the state police and municipality police issued respectively 1 042 and 36 restraining orders and the courts issued 2 339 protection orders, ordering the perpetrator to leave the victim's home. The Committee takes note of the information provided concerning the Crisis centres, which can provide temporary shelter to victims of domestic violence and their children. It notes that, as from 2015, State funded social rehabilitation services are available both for victim of violence, but also for persons who have committed violence in order to prevent or reduce further risks of violent behaviour. As from 2016, a free victim support hotline is available from 7:00 to 22:00, in addition to an interactive web-page (www.cietusajiem.lv) providing online consultation.

As regards prosecution of domestic violence, the report explains that although the Criminal Law does not provide specifically for gender-based domestic violence as such, different provisions of the Criminal Law apply, depending on the gravity of the act and its consequences (intentional slight, moderate or serious bodily Injury; torture etc.). In 2017, legal amendments were made (in force as from 2018) to criminalise female genital mutilation, stalking and psychological violence. The notion of bodily injury was also amended to include mental traumas and disorders with certain chronic course, resulting from an offence. In addition, aggravating circumstances were introduced, which apply when bodily injury and sexual violence are committed in the presence of a child or against a relative (first or second degree of kinship), a person with whom the perpetrator is or has been in registered or unregistered marital relationship, or against a person with whom the perpetrator has a joint (single) household. Marital rape is also covered by these provisions. The Criminal Procedure rules have also been amended in order to allow the recording of oral submissions regarding a criminal offence and to prolonge the limitation period of criminal liability in cases of sexual violence. As from 2016, victims of domestic and intimate partner violence are entitled to specific rights under a new section in the Criminal Procedure Law, concerning specially protected victims (special interrogation and court hearing modalities can be applied upon request and the victim can be informed if the perpetrator is released or escapes).

The report refers to a draft law, prepared by the Ministry of Justice, which aims at strengthening cooperation and exchange of information between the State and local government institutions involved in the fight against domestic violence. The Committee asks the next report to provide updated information on the adoption of this law and on any other relevant measure taken to develop integrated policies to deal with issues related to domestic violence. It asks whether NGOs are also involved in the elaboration of such policies.

Social and economic protection of families

Family counselling services

In response to the Committee's question (Conclusions 2015), the report indicates that Family and children support departments are established within the social services in each local government. Their duty is to pursue social work with families and children, to provide advice to the users on ways to improve their social situation, their rights and responsibilities, to provide social assistance and social services as well as other support issues. They provide psychologist and family assistants services and organise support and awareness groups according to the users' needs (dysfunctional families, including parents with low care-skills, victims of violence, persons with addictions or mental disorders, foster families etc.).

In addition, the Committee takes note of a specific project, co-funded by the EU for 2016-2021, which aims at providing 1000 children with challenging behaviour with individual support plans, as well as providing support and advice to 2 250 professionals, parents and carers.

Childcare facilities

The Committee takes note of the initiatives taken in Riga to increase the number of places in pre-school services. According to the report, participation in early childhood education (between the age of 4 years and the age at which compulsory education starts) increased during the reference period, from 94.4% in 2014 to 95.5% in 2016. The number of private pre-school education institutions also rose (from 91 in 2013/2014 to 125 in 2016/2017) while the number of public pre-school education institutions remained stable (526 in 2013/2014 and 522 in 2016/2017). The number of children enrolled in pre-school institutions also increased slightly (from 93 533 in 2013/2014 to 94 249 in 2016/2017). The enrolment rate of pre-school education establishments (share of children aged 3-6 years in the total number of children in the respective age group) increased from 91.4% in 2013/2014 to 93.5% in 2016/2017. In addition, the report refers to a project launched by the Ministry of Social Affairs which aims to support flexible childcare services for children whose parents work, and to develop a long-term model to subsidise this service, thus making it easier for working parents to balance professional and family life. The scheme was implemented in 2015-2018 in the administrative territories of the cities of Jelgava, Riga and Valmiera.

Family benefits

Equal access to family benefits

According to Missoc database, family benefits are paid to the person who brings up the child, regardless of the family situation or nationality, and who is permanently resident in Latvia. In response to the Committee's question, the report clarifies that this also applies to stateless persons and refugees (Article 4§1 of the Law on State Social Allowances), if they have received a personal ID number and the child has a permanent residence permit or has been granted subsidiary status or pending the examination of the asylum request.

The Committee previously found that the situation was not in conformity with the Charter (Conclusions 2015, XIX-4(2011), XVIII-2(2007), XVII-2(2005)) on the ground that equal treatment of nationals of other states parties was not ensured regarding the payment of

family benefits because of the excessive length of residence requirement (five years). According to the information provided to the Governmental Committee (Report concerning Conclusions 2015), legislative amendments were being considered in order to reduce the length of temporary residence required to get permanent resident status. The report does not provide however any updated information on this issue. The Committee accordingly considers that the situation remains in non-conformity with the Charter on this point.

Level of family benefits

The Committee previously found that family benefits were not of an adequate level for a significant number of families and that, accordingly, the situation was not in conformity with Article 16 of the Charter.

According to the report, the monthly amount of the Family State Benefit remained unchanged (€11.38) for the first child, but was increased for the subsequent children (€22.76 for the second child, €34.14 for the third child, €50.07 for the fourth and following children). This benefit, which is not contributory or means-tested, is paid to the person raising a child from 1 to 15 years old (which can be extended to 20 years old for unmarried children continuing their studies). A lump-sum child birth allowance of €421 is granted at birth to one of the parents or carers and can be cumulated with an additional monthly (non-contributory) childcare allowance (€171 until the child is 18 months old and €42.69 for an additional optional period of 6 months), and a (contributory) monthly parental benefit, the amount of which depends on the recipient's average insurance contribution wage, the duration of the benefit chosen (12 or 18 months) and on whether the recipient is on child care leave. The parental benefit is suspended if the recipient receives an unemployment benefit. The report also provides information on foster families benefits, which were increased as from January 2018 (out of the reference period). Furthermore the report states that certain municipal benefits are available to families without means and allowances for the covering of expenses related to up-bringing and education of children (see for example in the report the data concerning Riga). The Committee also notes the information provided on the tax allowance for a dependent person (see the report for detailed information and data), which increased during the reference period (from €114 per month in 2014 to €175 in 2017, further increases planned until 2020) and other tax reforms affecting the non-taxable minimum, tax relief for education expenses and for large families (in respect of vehicles and immovable property). According to the report, the total expenditure for family State benefits increased during the reference period from 0.2% to 0.3% of the GDP (and amounted in 2017 to € 77 871 864, see the report as regards the expenditure concerning other allowances and benefits).

While taking into account the measures taken to raise the level of family and other types of benefits, the Committee notes that the minimum monthly amount of Family State benefit corresponds to 2% of the monthly median equivalised income in 2017 (€550.58, according to Eurostat), which remains inadequate. Based on the information at its disposal, the Committee concludes that the situation of Latvia is not in conformity with Article 16 in this regard.

Measures in favour of vulnerable families

The Committee notes from the report that additional benefits are available in case of birth of triples (lump sum of €8 538), children with disability or suffering from celiac disease (€106.72 monthly supplement to family benefits available until the age of 18, in addition to disabled childcare allowance and transport benefits), orphans (Riga municipality assistance, see data in the report), single parents (maintainance guarantee fund to ensure payment of alimony, see data in the report) and large families (fare relief in intercity public transport).

As regards the economic protection of Roma families, the Committee previously (Conclusions 2015) took note of State supported projects aimed at Roma social inclusion, in particular in the field of education. It requested information on the objectives that were set in

this field as well as their achievement. In response to this question, the report explains that a set of national Roma integration policy measures have been developed in the framework of the Action plan on the implementation of the National identity, Civil Society and Integration policy guidelines 2012-2018 (with a new plan covering 2019-2020), as well as in a number of regulations aimed at promoting the employment and socioeconomic inclusion of discriminated groups and at raising the awareness of mainstream society on discrimination issues (see details in the report). The report presents the objectives and examples of past measures, which were elaborated with members of the Roma integration policy implementation consultative Council and the Network of Regional experts on Roma integration issues, which is established by the Ministry of Culture, as well as Roma NGO and activists, non-Roma specialists and experts. It also confirms the achievement of the objectives of the Latvian Roma Platform project (phase I) concerning inter alia cooperation of local governments and Roma communities. In particular, the report indicates that since 2017 there are a training and support measure for Roma moderators provided at the local government level in order to facilitate dialogue and cooperation between Roma families, municipalities agencies and their representatives (social worker, teachers, employment mentors) in the framework of the project Latvian Roma platform II (2017/2018). The work of Roma mediators has been assessed and will continue in 2019-2020. The report also provides the example of a specific project, at local level, aimed at the social rehabilitation of Roma families with children of pre-school and school age. It furthermore refers to the "Roma in Latvia" survey of 2015, which concerned the situation of Roma in key areas – access to education, employment, healthcare and housing – with a view to identifying best practices and providing better elaboration and implementation of Roma integration policy in Latvia. According to this survey, Roma people still face many challenges in social economic areas such education, employment and social housing and remain the most socially disadvantaged national minority in Latvia, facing intolerance and discrimination. The survey acknowledges that, although the situation has improved in the last ten years, one of the basic problems remains the low education level among Roma population as well as the high level of long-term unemployment.

The Committee takes note of the information provided and asks the next report to provide updated information on the implementation of the ongoing measures and the results achieved.

Housing for families

As regards families' right to access to adequate housing, the Committee refers to its assessment under Article 31§1, finding that the situation is not in conformity with the Charter on the ground that the measures taken by public authorities to improve the substandard housing conditions of most Roma are insufficient.

As regards protection against unlawful eviction, the Committee previously requested comprehensive information on the procedures available to limit the risk of eviction, and in particular on whether there is an obligation to fix a reasonable notice period before eviction and to consult the parties affected in order to find alternative solutions to evictions, on the accessibility of legal remedies, legal aid and compensation in case of illegal eviction. It considered that, should the report fail to provide the requested information, there would be nothing to show that the situation is in conformity with the Charter.

In response to the Committee questions, the report refers to the relevant provisions of the Law on Residential Tenancy governing eviction, as well as to the support available to families seeking housing under Articles 26 and 66 of the Law on Protection of the Rights of the Child. The report also refers to the Riga City Council binding regulations of 2015 on Registration and Help in Solving Apartment Issues.

In particular, as regards the procedures available to limit the risk of eviction, the report points out that the eviction can only be ordered by a tribunal in case the tenant owes the rent and

payment of utility bills for more than three months (Article 28.2 of the Law on Residential Tenancy) and in these cases the termination of the contract must be notified in writing at least one month in advance. The report states that the civil procedure has been amended in 2015-2016 in order to encourage the parties to find a solution through mediation during different stages of the procedure. Thus, according to the report, a person is informed several times, and well in advance, before the actual eviction activities are started. The term for voluntarily vacating the premises is set by the judicial decision (Article 193 of the Civil Procedure Law) and, if the tenant fails to comply, the enforcement of the judgment is transferred to the bailiff, who will notify the tenant a new term to comply with the decision, in accordance with Article 555 of the Civil Procedure Law. The period for leaving the premises after a ruling is not set by the law but determined on a case by case basis, taking into account the factual circumstances of each case, and in practice a period of at least two weeks is granted, which can be postponed. Forced evictions are carried out only when the tenant fails to justify the non-compliance with the order. In accordance with Article 206 of the Civil Procedure Law, the court can decide to postpone the enforcement of the judgment, upon the tenant's request, taking into account the property of the parties, the rights of the child or other circumstances. The law (Law on Renting Residential Real Estate and Law on Residential Tenancy) identifies specific vulnerable groups who, in case of eviction, must be provided with other accommodation by the local government within three months after a court judgment on eviction becomes effective. These target groups include people on low income who have reached retirement age or are incapable of work due to disability; people who live with at least one underage dependant; poor people who have reached retirement age; and poor people who are incapable of work due to a disability. The report confirms that legal aid is ensured by the state for people on a low income or in need (under the State Guaranteed Legal Aid Law). As regards compensation in case of illegal eviction, the report indicates that the Constitution guarantees everyone the right to adequate compensation in the event of an unjustified violation of rights and confirms that in case of eviction not based on a valid court judgment, the victim is entitled to claim adequate compensation for property damage or personal injury, including the moral damage caused to him/her by bringing an action against the perpetrator in court.

In the light of the information provided, the Committee considers that the situation of Latvia is in conformity with the Charter on this aspect.

Participation of associations representing families

The report confirms that the improvement of the demographic situation and the quality of life of families remains a governmental priority and refers to the Centre for Demographic Affairs, a platform established in 2016 that includes experts from different branches with the aim to seek for new most effective cross-sectoral solutions for family support policy promoting population growth. The secretariat of this platform is ensured by the Cross-Sectoral Coordination Centre, under direct authority of Prime Minister. The Committee takes note of the information provided on the Action Plan for 2016-2017 "For the implementation of the National Family Policy Guidelines of 2011-2017" and the "Family-friendly municipality" program, which mainly aims to develop a long-term, comprehensive and easily transparent collection of information on support provided by local governments to families with children, providing information to parents about their possibilities to receive support in their local government and thus improving the accessibility of services to citizens. The Committee asks the next report to clarify whether all civil organisations representing families are regularly consulted in the elaboration and implementation of family policies.

Conclusion

The Committee concludes that the situation in Latvia is not in conformity with Article 16 of the Charter on the grounds that:

- equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive;
- family benefits are not of an adequate level for a significant number of families.

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 Latvia.

The legal status of the child

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.

In this respect the Committee notes from the Concluding Observations of the UN Committee on the Rights of the Child on the third to fifth periodic report of Latvia [CRC/C/LVA/CO/3-5, March 2016] that while the Committee welcomed the progress made by the State party in decreasing the number of children with the legal status of non-citizens, it recommended that the State party intensify its efforts to ensure that all children have access to a nationality, including by reviewing the Citizenship Law to automatically grant citizenship to children born in Latvia who would otherwise be stateless, including children of parents with "non-citizen" status and parents who are unable to transmit their citizenship to their child.

Further the Report of Commissioner for Human Rights of the Council of Europe following his visit to Latvia in 2016 [CommDH(2016)41] noted that according to the data provided by the Population Register, in July 2016, there were 6 301 stateless children; among them, 4 816 children were under the age of 15.

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

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

Protection from ill-treatment and abuse

The Committee recalls that it previously found the situation to be in conformity in this respect (Conclusions 2015). It recalls that corporal punishment is prohibited in all settings, including the home.

Rights of children in public care

The Committee previously asked what was the criteria for the restriction of custody or parental rights and what procedural safeguards existed to ensure that children were removed from their families only in exceptional circumstances (Conclusions 2015).

The report provides details of the circumstances in which a child may be placed outside the home. According to the report, under the Law on the Protection of the Children's Rights a child may be separated from his/her family, if: (i) the life, health or development of the child is seriously threatened due to violence or if there are justified suspicions regarding violence against the child, as well as due to lack of care or due to the circumstances of their home (social environment); (ii) the child is seriously threatening his/her health or development by using alcohol, narcotic or toxic substances; or (iii) the child has committed a criminal offence. It highlights that a child shall be separated from the family if it is not possible to improve the circumstances unfavourable to the development of the child if they remain in the family. The eviction of a family from accommodation may not be a reason to separate a child from their parents (Article 27 Paragraph 2 of the Law on the Protection of the Children's Rights). The report states that in general, before the separation of the child from the child's family the Orphan's and Custody Court has to carry out an initial assessment as to whether the parents

are able to improve the unfavorable conditions for the child's development. Only in situations in which when the child's remaining in the family threatens the child's life and health, will the Orphan's and Custody Courts make a decision to separate the child from their family and simultaneously restrict the parents' rights (Decision No. SKA-1182/2017 (A420218516) of 29 December 2017 of the Supreme Court (outside the reference period)). The Committee asks what measures are available to support families .

The Committee previously asked to be kept informed about the further development of foster care and deinstitutionalization of children in public care (Conclusions 2015).

According to the report the number of children under guardianship in 2017 was 4459, with 1137 children living in 600 foster families. In 2017 there were 1151 children in state and local Government social care institutions. The report also provides figures for children in long term social care institutions and social rehabilitation centers which indicate the number of children in insitutions is high. An Action Plan for Deinstitutionalisation for 2015-2020 has been adopted. The plan sets, inter alia, the following targets by 2022: 60% decrease in the number of children staying in institutional care for more than 6 months, and a decrease by 40% in the number of children living in institutions.

The Committee notes from other sources [*Opening Doors for Europe's Children*, Country Fact Sheet Latvia 2017] that in 2017 there were still over 1200 children living in institutions.

The report of the Commissioner for Human Rights of the Council of Europe (cited above) noted that in Latvia the main types of alternative care for children are foster care, guardianship, long-term care in small family-based institutions of the type provided by the charity organisation SOS Children's Villages and long-term care in institutions funded from the state or municipal budgets. Two types of institutions provide long-term residential care for children: State Social Care Centres and Child Care Institutions (the latter are also referred to as orphanages).

The Commissioner expressed concern, inter alia, about the practice of institutionalization of orphans and children without parental care, especially those under the age of 3 and the situation of children in long-term state care institutions, including children with disabilities, and urged the authorities to move forward the stalled de-institutionalization process.

The Committee asks to be kept informed of the number of children in institutions, and in foster care and of the progress made in deinstitutionalization and the implementation of the Action Plan for Deinstitutionalisation in particular.

The Committee notes from the report that the State has also established time limits for State-provided funding for a child's stay in a residential institution (according to the amendments to the Law on Social Services and Social Assistance, approved by the Parliament on 12 January 2017). According to the report, after the set time, the State ceases to fund the residential services provided to the child and the local government is required to fund the residential services for the child by itself or look for an alternative care services for the child. The Committee asks that the next report provides information on how many times the State has withdrawn such funding and what happens following the withdrawal of State funding.

Right to education

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

Children in conflict with the law

According to the report the age of criminal responsibility is 14 years.

According to Article 65 of the Criminal Law, children who have committed criminal acts may be subject to a period of detention in a correctional institution for juveniles, community service, or a fine. According to Article 55 of the Criminal Law, sentences may be suspended.

Article 65 Paragraph 2 of the Criminal Law, provides that a period of detention for a child who has committed a criminal offence prior to attaining eighteen years of age, may not exceed ten years for especially serious crimes, five years for serious crimes which are related to violence or the threat of violence, or have given rise to serious consequences and two years for other serious crimes. Children maybe conditionally released from detention prior to serving the full term imposed.

The Committee notes that the report states for children who have committed several offences the total period of detention may not exceed fifteen years.

The Committee recalls from its case law that children should only exceptionally be sentenced to a term of imprisonment as a measure of last resort. Such detention should be for the shortest period necessary and any period of detention should be regularly reviewed. The Committee seeks confirmation that periods of detention are regularly reviewed. The Committee also asks that the next report to provide information on measures taken to find alternatives to detention for children found guilty of offences.

The Committee notes that, in 2017, seven children were sentenced to a period of detention of between 5-10 years and two children to a period of detention of more that 10 years.

The Committee previously asked what was the maximum length of a pre-trial detention for children and whether children are detained separately from adults (Conclusions 2015).

As regards the length of pre trial detention the report indicates that the maximum period of pre-trial detention for children who are accused of especially serious offences is 8 months, which maybe extended by three months. The Committee recalls that it has found a period of 8 months to be excessive (Denmark Conclusions 2015), therefore the Committee finds that the length of pre-trial detention in Latvia to be excessive, and that the situation is not in conformity in this respect.

According to the report children are always separated from adult detainees.

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

Right to assistance

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

The Committee considers that 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 Committee notes from the Concluding Observations of the UN Committee on the Rights of the Child on the third to fifth periodic reports of Latvia [CRC/C/LVA/CO3-5 2016] that the Asylum Law, of December 2015 does not explicitly stipulate that the detention of asylum-seeking children should only be a measure of last resort and used for the shortest period of time necessary during their asylum-seeking process and noted that asylum-seeking children in detention facilities are entitled to primary health care and essential treatment only.

The Committee requests further information on measures taken to find alternatives to detention for asylum seeking children, to ensure that accommodation facilities for migrant children in an irregular situation, whether accompanied or unaccompanied, are appropriate and are adequately monitored and information on the type of healthcare asylum-seeking children have access to.

The Committee asks again what assistance is given to children in an irregular situation, in particular unaccompanied children to protect them against negligence, violence or exploitation.

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 Latvia 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 under the terms of Article 17 of the Charter.

The Committee notes that according to EUROSTAT in 2017 23.9% of children in Latvia (below the EU average of 24.9%) were at risk of poverty and social exclusion.

Therefore the Committee asks the next report to provide information on rates of child poverty as well as on measures adopted to reduce child poverty, including non-monetary measures such as ensuring access to quality and affordable services in the areas such as 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 etc. should also be indicated.

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 Latvia is not in conformity with Article 17§1 of the Charter on the ground that the maximum length of pre-trial detention is excessive.

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 Latvia.

Article 112 of the Constitution of the Republic of Latvia establishes everyone's rights to education. Article 11 Paragraph 1 and 2 of the Law on the Protection of the Children's Rights provides that the State shall ensure that all children have equal rights and opportunities to acquire education commensurate to their ability.

The Committee notes the information in the report on the procedure for enrolling a child in compulsory education.

Enrolment rates, absenteeism and drop out rates

According to UNESCO in 2017 the net enrolment rate for primary education for both sexes was 96.30%, the corresponding rate for secondary education was 91.76%.

The report states that local authorities are required to track all children of compulsory school age to ensure they are both registered in a school and attending school.

In 2016, the monitoring of unjustified absences was improved. Schools are obliged to enter information into State Education Information System regarding absences, the reasons for absences and the action taken.

According to the report, from March 2017 until December 2022, the State Education Quality Service in cooperation with the local governments and state vocational educational institutions is implementing the European Structural Funds project "*To reduce early school leaving in the implementation of preventive and intervention measures*". Individual aid is targeted at general education 5th-12th grade students, as well as vocational education 1st-4th year students who are at risk of early school leaving. The aim is to create a sustainable and effective prevention system, involving local government, the school, teachers and parents to identify in a timely manner the children at risk of school leaving and provide them with individualized support. These children and young people will have access to specialist advice, mentors, additional classes, as well as material support of educational services accessibility. By the end of 2017, 74 cooperation agreements had been concluded, involving 224 education institutions, within the framework of which 2514 individual support plans for pupils were reviewed.

In addition, with a view to reducing early school leaving rates, more emphasis has been placed on providing career advice and guidance.

The Committee wishes the next report to provide information on enrolment rates, absenteeism and drop out rates as well as information on measures taken to address issues related to these rates.

Costs associated with education

According to the report, students in Grades 1-4 are entitled to free school lunches. Riga municipality has extended this scheme to include students in grades 5-12 who receive basic and secondary education in the administrative territory of Riga City. It further covers the costs of catering (breakfast, lunch, afternoon snacks) for all students who attend a pre-school education programme in municipal or private educational institutions in the administrative territory of Riga City if the family has the status of a poor or low-income family or the family has 3 or more children.

The Committee asks if there are any other measures available to families with low income to cover the costs of education, in terms of assistance for books, transport etc.

Vulnerable groups

According to the report, the Education Development Guidelines 2014-2020 aim to promote the implementation of inclusive education and seek to ensure equal opportunities regardless of students' needs and abilities, economic or social status, race, nationality, gender, religious or political beliefs, state of health, occupation or place of residence.

As regards measures taken to support Roma children in education, the report states that the role of Roma mediators is to raise Roma parents' awareness of the importance of pre-school education and to prevent Roma pupils from dropping out of school.

In four cities (*Jelgava, Daugavpils, Limbaži and Viļķene*) Roma teacher assistants provide individual support to Roma pupils in order to improve their skills and knowledge, as well as to foster their regular school attendance. The survey "Roma in Latvia" reveals the positive role of Roma teacher-assistants especially in the pre-school and primary school period.

The survey "Roma in Latvia" indicates that although the educational level of Roma has improved slightly over the last decade it remains a significant problem. The education level of almost half of the interviewed Roma was lower than primary, slightly more than one third (34%) had primary education, while only 17.2% had any secondary education.

The Committee notes from ECRI report [CRI(2019)1, adopted December 2018 outside the reference period] that, out of a total of 900 Roma pupils enrolled during the school year 2016/17 in Latvia, more than one third (34.2%) were enrolled in special needs programmes. In the *Special primary education programme for students with learning disabilities*, 22.4% of pupils were Roma children, in spite of the fact that Roma account for less than 1% of the country's population. In the *Special primary education programme for students with mental development disorders*, the ratio is even higher at 39%. ECRI expressed concern about the disproportionately high number of Roma children enrolled in special needs programmes. In this respect, the authorities informed ECRI that they are in the process of generally integrating children with special needs into mainstream education, which should also benefit Roma children who might be wrongly placed in special needs programmes.

The Committee asks that the next report provide updated information on the situation of Roma children, and in particular progress made in including Roma children into general education. Meanwhile the Committee reserves its position on this point.

The report confirms that children in detention have the right to education. When in detention, persons, including underage persons, are provided the opportunity to participate in general primary education and general secondary education programmes, as well as informal educational activities.

The Committee previously noted that children seeking asylum have the right to education. The Committee seeks confirmation that all children present in Latvia, including those in an irregular migration situation, have the right to access education.

As Latvia has accepted Article 15§21 of the Charter it will examine the rights of children with disabilities to education under that provision.

Anti-bullying measures

The Committee asks what measures have been taken to introduce anti bullying policies in schools, i.e., measures relating to awareness raising, prevention and intervention.

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 Latvia.

Migration trends

Since 1990, in the result of migration, the number of population of Latvia has reduced by almost half a million (457 thousand). After joining the European Union in 2004 Latvia has experienced a considerable wave of labour migration to more prosperous countries, especially the United Kingdom and Ireland. It has been estimated that approximately 200,000 Latvians have emigrated in search for work and more are considering leaving.

Latvia has a long tradition of being a multi-ethnic country. According to the January 2017 data of the Central Statistical Bureau (CSB), the ethnic distribution of the Latvian population of 1 950 116 persons included 62% Latvians, 25.4% Russians, 3.3% Belarusians, 2.2% Ukrainians, 2.1% Poles, 1.2% Lithuanians, 0.27% Roma, 0.25% Jewish, 0.13% Germans, 0.1% Estonians, as well as other smaller ethnic groups.

According to the CSB January 2017 data, there were 222 847 so-called “noncitizens” residing in Latvia, accounting for 11.4% of the country’s population. The majority of them are ethnic Russians. They are a special category of persons, citizens of the former USSR who were residents in Latvia on 1 July 1991 and who do not possess citizenship of any other country.

During 2013-2017 the number of third-country nationals receiving residence permit based on the employment, gradually increased in Latvia totalling to 6255 persons. The highest number of resident permits were issued to nationals from Ukraine, Russia, Belarus and China.

Change in policy and the legal framework

The Immigration Law adopted in 2002, regulates the rights of third-country nationals in Latvia. The recent amendments to the Law introduced important changes with regard to attracting highly qualified specialists, shortened and improved general process for attracting labour force, as well as a possibility for foreign students to work 20 hours per week. According to the legislation, the right to employment is extended, with no limitation, to the spouse of a foreigner who has received a permanent residence permit.

The new Immigration Law was planned to be elaborated by March 2019. Thus, the Committee asks the next report to provide updated information with regard to the adoption of the new Law and relevant changes in the policy.

The Committee notes from the report, that in 2018 the Cabinet of Ministers adopted the Regulation No108 on “Professions where significant shortage of labour force is to be expected and where foreigners may be invited for work in the Republic of Latvia”, which aims at attracting third-country nationals (highly qualified specialists) to work in Latvia. Considering that the Regulation was adopted outside the reference period of the report, the Committee will take into consideration this information in the next reporting cycle.

In response to the Committees question raised in its previous conclusion (Conclusions 2015), the report provides that on 20 October 2011 "Guidelines on National Identity, Civil Society and Integration Policy 2012–2018" were approved by the Government. The Guidelines have been implemented in three main directions: 1) Civil society and integration – fostering civil society, integration, civic education and social inclusion; 2) National identity, language and cultural space – enhancing the national identity by the use of Latvian language in the public space, by Latvians leaving abroad, national minorities, non-citizens and new immigrants, strengthening the Latvian culture; 3) Shared social memory-enhancing the understanding of the World War II and the Soviet occupation based on true facts,

promoting research on local and European history. A wide range of measures have been implemented in line with the Guidelines in the abovementioned areas.

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).

The Committee notes from the report, that the State Employment Agency (SEA) is taking various active labour market policy measures to enhance the competitiveness, including non-formal education programmes, Latvian language training courses, vocational trainings, as well as preventive unemployment reduction measures.

In 2013 a Consultative Council for the Integration of Third-Country Nationals was established. The purpose of the Council is to foster discussion and collaboration between institutions dealing with third-country nationals, to promote involvement of third-country nationals, as well as NGOs representing these persons in the States policy making in the field of integration in the society. Number of measures have been taken. Particularly: resource centres for third-country nationals, including in the regions, have been established, which provide information on the rights and obligations of migrants, available public and private services; consultations have been provided to third-country nationals with regard to social and legal affairs, employment, education and other issues; language courses and integration courses of various levels have been elaborated.

During the period from 2013 to 2015 the Society Integration Foundation was responsible for functioning of National Integration Centre, the main tasks of which were the provision of services for third-country nationals. Services included consultations in areas related to social, health, education and employment issues, legal advice, support to clients in crisis situations, Latvian language courses and communication and training activities on tolerance and antidiscrimination.

At the end of 2015, the Cabinet of Ministers adopted the Action Plan for Relocation and Reception of Persons in Need of International Protection (Order of Cabinet of Ministers No. 759 of 9 December 2015). The Action Plan includes several measures aiming at social and economic inclusion of asylum seekers, refugees and persons with subsidiary protection (alternative status) through the provision of information about Latvia, support by social workers and social mentors, Latvian language training, promoting employment, etc.

In addition to active labour market measures, offered to refugees and persons with alternative status, asylum seekers are offered an introductory course "Work opportunities in Latvia" and consultations on work opportunities in the reception centre for asylum seekers "Mucenieki". There is also an e-leaflet "First steps to employment" including information on work, education, housing social support in 5 languages (www.nva.gov.lv). The SEA has developed cooperation with 109 employers who would like to hire refugees and persons with alternative status.

Also, the SEA provides individual career consultations to third-country nationals legally residing in Latvia, as well as, "Informative days" are organised for unemployed persons or job seekers, where support in searching jobs and information about the range of services available at the SEA are provided.

Since 18 May 2016 the Information Centre for Immigrants (ICI) has been operating all over Latvia as a one-stop agency. As of 20 December 2017, ICI has provided support to 2514 persons – 1451 in Riga, 462 in Liepaja, 199 in Jelgava, 223 in Daugavpils, 179 in Cesis. In total, 3655 consultations have been provided regarding various legal and social issues. Most frequently, customers have chosen to receive consultations in person – in 2106 cases, 1021 consultations were provided by phone, 332 – using Skype, and 196 times by e-mail. The opportunity of follow-up consultations was often used. Foreign citizens were mostly

interested in migration, employment, business opportunities and family matters in Latvia, as well as possibilities to learn Latvian. Customers have used consultations of an ICI psychologist 121 times.

In total, free consultations were provided to people from 81 countries. TOP 20 countries: Russia, Syria, Ukraine, India, China, Turkey, Belarus, Pakistan, Uzbekistan, Tajikistan, Iraq, Georgia, Afghanistan, Egypt, United States of America, Azerbaijan, Eritrea, Armenia, Vietnam, Sri-Lanka. Qualitative communication with the ICI's customers was ensured with the help of 33 translators / language specialists with the following language skills: Dari, Farsi, Pashto, Urdu, Arabic, French, Tajik, Kurdish, Punjabi, Chinese, Turkish, Uzbek, Hindi, Spanish, Tamil, Bengali, Vietnamese, and Armenian.

Interpretation services were provided not only for customer communication with the ICI's consultants, but also for professionals working with foreigners. Professional support for working with third-country nationals has been provided to 422 specialists of various areas.

Special Informative Days have also been organized in Liepaja, Riga and Daugavpils, where foreigners were provided with an opportunity to learn about the informative and practical resources available.

Those who want to live, study, work or start their own business in Latvia may find useful information on the website www.integration.lv. It provides foreigners and professionals with answers to various practical questions and up-to-date information on Latvian language and integration courses, as well as on different events organised by various organisations in all over Latvia.

The Committee considers that the situation with regard to the provision of free services and information to migrant workers is in conformity with the Charter.

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 notes from the report that the Law on Press and other Mass Media prohibits the publication of content that promotes national or religious superiority and intolerance

(Article 7). The Law on Electronic Mass Media prohibits incitement to hatred or discrimination against a person or group of persons on the grounds of sex, race or ethnic origin, nationality, religious affiliation or faith, disability, age, or other circumstances (Article 26). It also requires the electronic media to ensure that facts and events in programme are presented fairly and objectively, with due accuracy and impartiality, in order to promote the exchange of opinions and that they meet the generally accepted principles of journalism and ethics.

In 2014 the Criminal Law was amended providing criminal liability for discrimination due to racial, national, ethnic or religious belonging or for the violation of the prohibition of any other type of discrimination, if a substantial harm is caused thereby.

The National Electronic Mass Media Council is the independent regulatory authority responsible for ensuring that the electronic media comply with the law. The Council has its own monitoring centre and is obliged to investigate complaints. The Council has not received any complaints about misleading propaganda relating to emigration and immigration.

The Latvian Independent Television (LNT) has prepared awareness raising stories and articles on such topic as migration, educational seminars and webinars. Three international conferences on migration issues were organised. The Asylum, Migration and integration Fund has funded two projects aimed at raising awareness and improving quality of the information provided by mass media on topics related to migration and integration.

In 2014/2015 The Society Integration foundation in cooperation with the Ministry of Culture implemented a project "Different people. Various experiences. One Latvia – II" In the framework of the project several activities aimed at raising awareness, knowledge and skills of public workers, professionals and experts, which work with ethnic minorities and other non-discrimination groups, were implemented. Particularly, trainings of trainers on non-discrimination, diversity and equality issues for police officers, social, government and municipality employees, including the employees of public libraries and cultural workers were organised; Different measures were taken to promote and foster diversity management, as well as examine and share existing best practices in the private (business) sector. During the period 2014 – 2017 more than 500 public and private sector participants attended relevant training courses.

In 2015 Society Integration Foundation organised awareness-raising activities targeted at the general public by demonstration of cases of discrimination through digital storytelling; 7 video stories were produced on 7 grounds of discrimination by giving a voice to the representatives of discriminated groups. Video stories were broadcasted in social media, internet media, televisions, cinemas and had initiated intensive public discussions status

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 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). The Committee stresses the importance of promoting responsible reporting by the media. It considers that in order to combat misleading propaganda, there must be effective organs to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere.

The Committee notes from the Fifth report of the European Commission against Racism and Intolerance (ECRI) (adopted in 2018), that the financial situation, visibility and accessibility of the Ombudsman's office have improved. In 2016, the Ombudsman conducted research into problems concerning the investigation of hate crime and hate speech. Subsequently, the State Police, with the State Police College and the Security Police and in consultation with

the Prosecutor General, the Ombudsman and the Latvian Centre for Human Rights, issued guidelines on the investigation of hate speech and hate crime.

In 2014, the State Police signed a Memorandum of Understanding with the OSCE's Office for Democratic Institutions and Human Rights in the framework of the Training against Hate Crimes for Law Enforcement (TAHCLE) programme. Since then, the State Police College has significantly intensified its training activities in the area of hate crimes, including for police officers, the Prosecutor General's office and the Supreme Court. The activities also involved NGOs linked to vulnerable groups which reported a very positive working relationship with the police.

ECRI notes that the State Police does not have a dedicated team tasked with reaching out to vulnerable groups in the context of combating hate crime. There is also a lack of promotion of counter-speech among high-level political representatives and other public figures in response to racist and homo-/transphobic hate speech.

In 2016 and 2015, there were 11 hate crime incidents per year reported by the Latvian authorities to ODIHR. In previous years, the number of reported incidents was higher: 13 in 2014, 22 in 2013 and 18 in 2012. In addition to data provided by the authorities, several NGOs also report hate speech incidents against different minority groups in Latvia.

The Committee asks the next report to provide detailed data on the measures taken by the State Police to identify and investigate cases of hate crime/speech.

In the 2016 LCHR survey, migrant representatives and foreign students indicated that hate speech is mostly encountered in public places, such as streets, public transport, cafes and bars, but also in higher educational establishments. Following the terrorist attacks in France (2015) and Belgium (2016), an increase in Islamophobic rhetoric and hate speech was also noted in Latvia. As in many countries, a considerable part of hate speech in Latvia is now found on-line: on websites, in comments sections and in social media. This is also acknowledged by the government.³⁰ In a study carried out in 2016, the Ombudsman identified online hate speech in the form of anonymous comments as a key problem.

The Committee recalls that to be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia. 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 (Conclusions XV-1 (2000), Austria). Authorities should take action in this area as a means of preventing illegal immigration and trafficking in human beings (Conclusions 2006, Slovenia).

The Committee notes for the report that the SAE takes preventive measures to combat trafficking in human beings. It provides information to companies and job-seekers about trafficking in human beings, conducts planned and out-of-plan inspections in licensed companies and verifies and evaluate the compliance of the documents of licensed companies with the legislation. It asks for complete and up-to-date information on any measures taken to target illegal immigration and, in particular, trafficking in human beings.

In the meantime, the Committee considers that progress is demonstrated by the abovementioned reports, and accordingly finds that the situation is in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia is in conformity with Article 19§1 of the Charter.

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

Paragraph 4 - Equality regarding employment, right to organise and accommodation

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

The Committee further notes that it has concluded in its previous conclusion ([Conclusions 2015](#)) that migrant workers lawfully resident in the country are treated not less favourably than nationals with regard to remuneration and working conditions. It will focus its present assessment on any outstanding issues.

Remuneration and other employment and working conditions

The Committee recalls that States are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training, promotion, as well as vocational training (Conclusions VII (1981), United-Kingdom).

The Committee refers to its previous conclusion (Conclusions 2015), in which it has assessed the remuneration and other working conditions of migrant workers.

Membership of trade unions and enjoyment of the benefits of collective bargaining

The Committee recalls that this sub-heading requires States to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining (Conclusions XIII-3 (1995), Turkey). This includes the right to be founding member and to have access to administrative and managerial posts in trade unions (Conclusions 2011, Statement of interpretation on Article 19§4(b)).

The Committee observed in its previous conclusion (Conclusions 2015) that employees as well as employers have the right to freely unite, without any direct or indirect discrimination. It referred to the Statement of Interpretation (Conclusions 2015) and asked for information concerning the legal status of workers posted from abroad. As the report does not address this issue, the Committee recalls its question and reserves its position on this point pending receipt of comprehensive information.

Accommodation

The Committee recalls that States shall eliminate all legal and de facto discrimination concerning access to public and private housing (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§111-113). It also recalls that there must be no legal or de facto restrictions on home-buying (Conclusions IV (1975), Norway), access to subsidised housing or housing aids, such as loans or other allowances (Conclusions III (1973), Italy).

In reply to the Committee's request for information, the report provides that persons who reside in the Republic of Latvia have the right to receive the benefit for ensuring the guaranteed minimum income level, shelter and night shelter services, as well as information and consultations from the social service office, which is also entitled to grant a housing allowance. The Committee understands that the subsidised housing or housing allowance is available to migrant workers on the same conditions as to nationals and asks the next report to confirm that this is the case.

Monitoring and judicial review

The Committee recalls that it is not enough for a government to demonstrate that no discrimination exists in law alone but also that it is obliged to demonstrate that it has taken adequate practical steps to eliminate all legal and de facto discrimination concerning the

rights secured by Article 19§4 of the Charter (Conclusions III (1973), Statement of interpretation).

In particular, the Committee considers that in order to monitor and ensure that no discrimination occurs in practice, States Parties should have in place sufficient effective monitoring procedures or bodies to collect information, for example disaggregated data on remuneration or information on cases in employment tribunals (Conclusions XX-4 (2015), Germany).

The Committee further recalls that under Article 19§4(c), equal treatment can only be effective if there is a right of appeal before an independent body against the relevant administrative decision (Conclusions XV-1 (2000) Finland). It considers that existence of such review is important for all aspects covered by Article 19§4.

The Committee refers to its previous conclusions (Conclusions 2015) in which it positively assessed that in case of violation of his/her employment rights, the employee has a possibility to apply to a court or to the State Labour Inspectorate for redress. The SLI supervises and controls observance of the requirements of the regulatory enactments regarding employment legal relationships and labour protection, as well as controls how employers and employees mutually fulfil the obligations specified in employment contracts and collective labour agreements. The burden of proof in cases of discrimination is shifted onto the employer.

The report confirms that there were no changes to the relevant legal framework in the reference period. The Committee reiterates its question for further information on the calculation of compensation for discriminatory treatment, in particular in cases relating to migrant workers.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia is in conformity with Article 19§4 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 Latvia.

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 has assessed the legal framework in this respect in its previous conclusion and considered it to be in conformity with the Charter (Conclusions 2015).

The report confirms that the personal income tax is not based on citizenship, the main criterion for the application of the rate, the non-taxable minimum income, the tax reliefs and eligible expenses being the criterion of residence.

The Committee understands that contributions payable in relation to employment apply equally to migrants and nationals and ask the next report to provide more detail information in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia is in conformity with Article 19§5 of the Charter.

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

Paragraph 6 - Family reunion

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

The Committee notes from the Migration Integration Policy Index 2015 (MIPEX) that Latvia's family reunion policies are more discretionary than in most countries, with relatively few non-EU families willing or able to reunite in the country. Discretionary procedures may undermine favourable eligibility provisions and legal conditions. The Committee asks the next report to comment on these observations.

Scope

This provision obliges States Parties to allow the families of migrants legally established in the territory to join them. The worker's children entitled to family reunion are those who are dependent and unmarried, and who fall under the legal age of majority in the receiving State. "Dependent" children are understood as being those who have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies (Conclusions VIII (1984) Statement of Interpretation on Article 19§6).

The Committee has assessed the scope of the right to family reunion in its previous conclusion ([Conclusions 2015](#)), and noted that family members of foreigners entitled to temporary residence, including minor children of either partner, spouses and parents, may joined them in Latvia.

Conditions governing family reunion

The Committee recalls that a state must eliminate any legal obstacle preventing the members of a migrant worker's family from joining him (Conclusions II (1971), Cyprus). Any limitations upon the entry or continued present of migrant workers' family must not be such as to be likely to deprive this obligation of its content and, in particular, must not be so restrictive as to prevent any family reunion (Conclusions XVII-1 (2004), the Netherlands; Conclusions 2011, Statement of Interpretation on Article 19§6).

The Committee furthermore recalls taking into account the obligation to facilitate family reunion as far as possible under Article 19§6, States Parties should not adopt a blanket approach to the application of relevant requirements, so as to preclude the possibility of exemptions being made in respect of particular categories of cases, or for consideration of individual circumstances (Conclusions 2015, Statement of Interpretation on Article 19§6). The Committee acknowledges that States may take measures to encourage the integration of migrant workers and their family members. It notes the importance of such measures in promoting economic and social cohesion. However, the Committee considers that requirements that family members pass language and/or integration tests or complete compulsory courses, whether imposed prior to or after entry to the State, may impede rather than facilitate family reunion and therefore are contrary to Article 19§6 of the Charter where they have the potential effect of denying entry or the right to remain to family members of a migrant worker, or otherwise deprive the right guaranteed under Article 19§6 of its substance, such as by imposing prohibitive fees, or by failing to consider specific individual circumstances such as age, level of education or family or work commitments (Statement of interpretation on Article 19§6, Conclusions 2015).

The Committee noted in its previous conclusion (Conclusions 2015) that a family member has the right to receive a permanent residence permit if he or she has acquired the official language. It asked what level of language was necessary in order to receive a permanent residence permit and what the level of the applicable fee was. The report does not address this issue. The Committee thus repeats its question and ask whether a temporary residence

period is linked to any language requirements. It 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.

The Committee has also previously noted that a family reunion may be refused if a foreigner has such a health disorder or disease that endangers the safety of the public and the health of the members thereof, or there is a reason to believe that the foreigner may cause a threat to public health. The Committee asked for confirmation of which diseases might lead to refusal of entry for a family member pursuant to these provisions. The report does not address this issue. The Committee recalls that a state may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. A refusal on this ground may only be admitted for specific illnesses which are so serious as to endanger public health (Conclusions XVI-1 (2002), Greece). These are the diseases requiring quarantine which are stipulated in the World Health Organisation's International Health Regulations of 1969, or other serious contagious or infectious diseases such as tuberculosis or syphilis (Conclusions XV-1 (2000), Finland). In the light of the lack of sufficient information, it considers that it has not been demonstrated that the situation is in conformity with the Charter on this point.

As to the means requirement for a family reunion, the Committee asked in the previous conclusion what threshold was required to demonstrate that the sponsoring person could bring in the family or certain family members and whether the income derived from social benefits could be taken into account. The report solely confirms that a permit shall be refused if a foreigner does not have the necessary financial resources for residence in the Republic of Latvia. Accordingly, the Committee considers that it has not been demonstrated that the level of means required to bring in the family or certain family members is not so restrictive as to prevent any family reunion.

Similarly, as regards the requirement for sufficient or suitable accommodation to house family members which should not be so restrictive as to prevent any family reunion (Conclusions IV (1975), Norway), the report does not provide any information to prove that Latvia does not apply such requirements in a blanket manner which precludes the possibility for exemptions to be made in respect of particular categories of cases, or for consideration of individual circumstances. The Committee thus considers that it has not been demonstrated that situation is in conformity with the Charter on this point.

The Committee has furthermore noted previously that a foreigner who has joined a foreign military service would be refused a residence permit and asked under what circumstances this ground for refusal would apply, and whether family members who have previously served in a foreign military service remain eligible for family reunion. Since the report does not reply to this question, the Committee recalls it and underlines that should the next report not provide the requested information, there will be nothing to show that the situation is in conformity with the Charter in this respect.

The Committee has previously considered that the situation in Latvia was not in conformity with the Charter on the ground that family members of a migrant worker were not granted an independent right to stay after exercising their right to family reunion (Conclusions 2015). The situation has not changed and thus the Committee renews its conclusion of non-conformity.

Remedy

The Committee recalls that restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness (Conclusions 2015, Statement of Interpretation on Article 19§6).

The report provides that a decision concerning a residence permit may be appealed pursuant to procedure laid down in Administrative procedure law and is also subject to the right to appeal to a court.

Conclusion

The Committee concludes that the situation in Latvia is not in conformity with Article 19§6 of the Charter on the grounds that:

- family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion;
- it has not been established that:
 - a family member of a migrant worker may not be denied entry to Latvia for the purpose of family reunion for health reasons;
 - the level of means required to bring in the family or certain family members is not so restrictive as to prevent any family reunion;
 - the requirement of sufficient accommodation is not so restrictive as to prevent any family reunion.

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 Latvia.

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 more detailed description of conditions whether someone qualifies for legal aid, the report provides that overall regulations for determining whether someone qualifies for legal aid are:

- the status of a low-income or needy person (local government social service shall issue a relevant statement);
- finding themselves suddenly in a situation and material condition which prevents person from ensuring the protection of their rights (due to a natural disaster or force majeure or other circumstances beyond their control) – only the person him/herself may submit information and proof of that;
- are on full support of the State or local government – information shall be provided by the relevant State or municipal authority pursuant to the request of the person.

The report further provides comprehensive information on the relevant formalities, grounds for refusal of legal aid and on the Legal Aid Administration and the scope of its review legal aid requests in voluntary return proceedings. It also submits relevant statistics in this respect.

Conclusion

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

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

Paragraph 8 - Guarantees concerning deportation

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

The Committee has interpreted Article 19§8 as obliging 'States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality' (Conclusions VI (1979), Cyprus). Where expulsion measures are taken they cannot be in conformity with the Charter unless they are ordered, in accordance with the law, by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review. Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality. Such expulsion orders must be proportionate, taking into account all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of his/her presence in the territory of the State. The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that he/she may have formed during this period, must also be considered to determine whether expulsion is proportionate. All foreign migrants served with expulsion orders must have also a right of appeal to a court or other independent body (Statement of Interpretation on Article 19§8, Conclusions 2015).

In its previous conclusion ([Conclusions 2015](#)), the Committee has noted that a voluntary return decision or a removal order might be adopted only if the stay of the foreigner in Latvia was illegal. Such being the case, the Committee was able to conclude that the situation complied with the Charter, pending information as to under what circumstances a foreigner's stay could become irregular and what procedures regulated the issuing of expulsion orders.

The report submits that a voluntary return decision or removal order is issued by the Office of Citizenship and Migration Affairs or the State Border Guard pursuant to Immigration Law of 2002. It is subject to an appeal to an administrative court and a cassation appeal. Further, the report states that illegally staying foreigner is a person who does not conform to the provisions of Article 4 of EU Regulation No 2016/399 on the rules governing the movement of persons across borders (Schengen Borders Code).

The Committee notes the positive information submitted, in particular on the right to appeal against an expulsion decision. However, it considers that it is still lacking important information which would enable it to comprehensively assess the situation. Therefore the Committee requests that the next report exhaustively describes all grounds on which the expulsion of a foreigner may be ordered. It refers in this respect to its [interpretative statement in its Conclusions 2011](#).

Furthermore, the Committee repeats its request for information on the law and practice pertaining to the expulsion of migrants who are citizens of other States party to the Charter, who have been long-term residents in Latvia and established significant ties there (see the question raised in the [Conclusions 2015](#)).

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 9 - Transfer of earnings and savings

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

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 further notes that it previously addressed the legal framework relating to transfer of earnings and savings of migrant workers ([Conclusions 2015](#)) and found it to be in conformity with the requirements of the Charter. The report confirms that the situation has not changed.

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 there are no restrictions on the transfer of movable property of migrant workers.

Conclusion

The Committee concludes that the situation in Latvia 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 Latvia.

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 Article 19§10, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.

The Committee has found the situation in Latvia not to be in conformity with Article 19§6. Accordingly, for the same reasons as stated in the conclusion on the abovementioned Article, the Committee concludes that the situation in Latvia is not in conformity with Article 19§10 of the Charter.

Conclusion

The Committee concludes that the situation in Latvia is not in conformity with Article 19§10 of the Charter as the ground of non-conformity under Article 19§6 applies also to self-employed migrants.

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 Latvia.

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 ([Conclusions 2015](#)), in particular as regards the education of children, 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 provides that the governmental Latvian Language Agency (LLA), provides systemic and sustainable support for foreigners, offering language courses for free, with more than 66 000 beneficiaries so far. The Agency also developed education programmes for teachers at ethnic minority schools and teachers working in a varied linguistic environment, as well as methodologies for the acquisition of the Latvian language as second and foreign language, produced and published textbooks and methodological literature for Latvian language acquisition and bilingual studies. Additionally, Latvian language courses are available for third-country nationals, including refugees and persons with alternatives status, in the framework of other projects administered by the Ministry of Culture or by the Riga City Council. Likewise, the National Integration Centre offers free language courses up to advanced level.

The report provides also information on further support and resources made available to schools for learning and teaching Latvian. It specifies that since 2012, specific attention has been equally given to pre-school education.

In reply to the Committee's request, the report provides extensive statistics, accompanied by a comprehensive analysis.

Conclusion

The Committee concludes that the situation in Latvia is in conformity with Article 19§11 of the Charter.

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

Paragraph 12 - Teaching mother tongue of migrant

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

The Committee recalls that according to its case law, States must promote and facilitate, as far as practicable, the teaching in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory. In practical terms, States should promote and facilitate the teaching of the mother tongue where there are a significant number of children of migrants who would follow such teachings (Conclusions 2011, Statement of interpretation on Article 19§12).

The report states that the Government supports state-funded ethnic minority education programmes in seven minority languages: Russian, Polish, Belarusian, Ukrainian, Estonian, Lithuanian and Hebrew, both at primary and secondary school levels. The report provides relevant statistics on bilingual schools and explanations on organisation of bilingual education. Above the financial support, bilingual ethnic minority schools have been provided with thematic plans for secondary education in ten academic subjects (Physics, Chemistry, Biology, Mathematics, Geography, Economics, Politics and Law, History and Latvian language and literature); with manuals on the Latvian experience with bilingual education and current issues in the field; with methodological editions for the development of writing ability in bilingual studies, as well as for content and language integrated learning in History, Geography, Biology, Physics, Chemistry and Mathematics.

Conclusion

The Committee concludes that the situation in Latvia is in conformity with Article 19§12 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 Latvia.

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). It will therefore only consider the recent developments and additional information.

Employment, vocational guidance and training

The Committee understands that the situation which it has previously found to be in conformity with the Charter (Conclusions 2015) has not changed during the reference period and therefore reiterates its finding of conformity on this point.

Conditions of employment, social security

In reply to the Committee's question, the report states that under Article 134(2) of the Labour Law, employers must provide part-time employment if a request is made by a woman who is pregnant, a woman who has recently given birth until the child is one year of age, a woman who is nursing (during the whole nursing period) or an employee who has a child under the age of 14 years or a child with disabilities under the age of 18 years.

The Committee takes note of other articles of the Labour Code which regulate conditions for part-time work, overtime work, and work on weekends or holidays of workers with family responsibilities.

The Committee asks whether workers are entitled to relevant social security benefits, in particular health care, during periods of parental or other childcare leave. It also asks if there are any other work conditions available to employees that may facilitate the reconciliation of working and private life, such as telework, working from home or flexible working hours.

In its previous conclusion (Conclusions 2015), the Committee sought confirmation that periods of absence due to family responsibilities were taken into account for determining the right to pension equally for men and women. In reply, the report states that, under Article 6 of the (amended) Law on State Social Insurance, the state covers the social insurance contributions in respect of pensions for persons: i) caring for a child under the age of one and a half years and who are receiving parents' benefit; ii) receiving maternity, paternity or sickness benefit; iii) receiving disabled child benefit; iv) receiving an allowance for the care of an adopted child; and v) persons receiving remuneration for fostering. The report states that all the said periods of leave due to family responsibilities are taken into account when determining the right to pension, equally for men and women.

Child day care services and other childcare arrangements

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

As regards the reconciliation of private and professional life of workers with family responsibilities, the report states that a project entitled "Implementation of flexible working hours for employees who work non-standard hours" was launched for a 36-month period (from 1 August 2015 to 31 July 2018) by the Ministry of Social Affairs. The aim of the project was to support flexible childcare services for children whose parents work, and to develop a long-term model to subsidise this service, thus making it easier for parents to work and to balance professional and family life. The Committee notes from the report that the scheme was implemented in the administrative territories of the cities of Jelgava, Riga and Valmiera.

Conclusion

The Committee concludes that the situation in Latvia 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 Latvia.

It already considered the situation regarding parental leave in its previous conclusion (Conclusions 2015) and found that the situation was in conformity with Article 27§2 of the Charter. It will therefore only consider recent developments and additional information.

In its previous conclusion, the Committee asked whether fathers had a right to non-transferable leave and if so, what was the length of this leave. In reply, the report states that the right to parental leave is individual and not transferable. Under Article 156§1 of the Labour Law, every employee has the right to parental leave which cannot exceed one and a half years in duration, up to the day the child reaches the age of eight years. Parental leave, upon the request of an employee, shall be granted as a single period or in parts (Article 156§2). It is possible for each parent to obtain parental leave.

In its previous conclusion, the Committee also asked what financial compensation or benefits are provided during the period of parental leave. In reply, the report states that as from 1 October 2014, according to the amendments to the Law on Maternity and Sickness Insurance, the parental benefit is cumulated with the Child Raising Allowance.

According to the report, compensation for parental leave is payable under the compulsory social insurance scheme to persons contributing to social insurance who are raising a child under the age of one or one and a half years. Under Article 10§4 of the Law on Maternity and Sickness Insurance, the benefit may be claimed by one of the parents or another person caring for the child as a guardian, adoptive parent or foster parent. A person, who has been socially insured, has the right to choose between two periods during which to receive compensation for parental leave: (i) child care up to the age of one (at 60% of the average gross wage on which contributions have been paid during 12 months); or (ii) child care up to the age of one and a half (at 43.75% of the average gross wage on which contributions have been paid during 12 months). The choice made regarding the duration of the benefit is final once the benefit has been awarded.

According to the amendments to the Law on Maternity and Sickness Insurance adopted on 23 November 2016, persons may receive parental benefits and work at the same time, in which case parental benefit is paid in the amount of 30% of the benefit awarded.

The Committee notes from the report that payment of parental benefit is suspended while a person receives unemployment benefit. Since 1st January 2017, the right to parental benefit extends to persons who are not employed on the day on which the benefit is granted, but who were employed at the time when maternity leave commenced.

The Committee observes that parental leave may be taken until the child reaches the age of eight years, but that parental benefit is payable only until the child reaches the age of one year or one and a half years.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Latvia 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 Latvia.

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

Conclusion

The Committee concludes that the situation in Latvia 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 Latvia. It also takes note of the comments made by the "Association of owners of apartments and tenants of denationalized and municipal housing" and FIDH Latvian Human Rights Committee.

Criteria for adequate housing

The Committee notes from the report that criteria for adequate housing apply to housing rented in the framework of housing assistance by the relevant local administrations. The Law on Assistance in Solving Apartment Matters prescribes who is entitled to such assistance and under what procedures and its Article 16 defines the residential space fit for living as a lighted, heated room, suitable for long-term human accommodation and for placing household items, which must comply with the construction and hygiene requirements specified in the Regulations of Cabinet of Ministers. The report adds that this law provides that the housing must be protected against the cold, damp, heat, rain, wind, or other health hazards and disease vectors. It also states that requirement for access to water supply systems, access to energy for cooking, heating, lighting, sanitation, hygiene, food storage and waste disposal systems are provided both in the Law on Assistance in Solving Apartment Matters and the Law on Housing Support.

Requirements of "adequate housing" are also contained in the Law on Residential Tenancy, which applies to rented housing and obliges the lessor to provide housing "fit to be used in accordance with the lease contract". According to Article 11.3 of this Law, the lease contract shall notably include the provision of heating, cold water, sewerage and removal of municipal waste, plus any auxiliary services which might have been agreed between the parties (hot water, gas, electricity, parking place, etc.). The law also obliges the lessor to ensure housing maintenance in accordance with the construction and hygiene requirements specified by regulatory enactments.

Furthermore, the Law on Administration of Residential Houses of 2009 (Article 6§2) sets a number of health and safety housing requirements, including the provision of sanitary services and the inspection, technical servicing and maintenance of the facilities of residential houses, in accordance with the relevant Cabinet Regulations of the Housing Policy Department. The Committee asks the next report to clarify whether these regulations apply not only to new constructions but also to the constructions built before the enactment of the law. It notes in this respect that, according to the latest data available (Census 2011, out of the reference period) out of 2 044 023 dwellings, some 10% had no water pipe and some 20% had no flush toilets or bath/shower. Furthermore, out of the 809 227 living quarters surveyed, the size of the living space per person was less than 10m² in 5.9% of them and 10 to 15m² in 13% of them. The Committee notes that the next survey is scheduled in 2021 and asks the next report to provide updated data. It also asks whether the law sets the conditions (i.e. the minimum living space size) under which housing is considered overcrowded.

The Committee takes note of the information provided in the report concerning the measures envisaged by the Ministry of Economy to improve the quantity and quality of housing stock: creation of State support programmes for the construction of affordable rental housing, development of model building projects, promotion of housing investments, setting up of financial instruments aimed at improving the existing housing stock, reviewing the relevant regulations and procedures with a view to encourage owners to plan repair works and improve housing conditions. It asks the next report to provide updated information on the implementation of measures aimed at improving adequate housing.

Responsibility for adequate housing

In response to the Committee's request of information on how public authorities ensure that housing is adequate, the report refers to the Cabinet of Ministers' Regulation No. 500 of 19 August 2014 on "General Construction Regulations", which provides for the measures to be taken when a building does not comply with the requirements of the Construction Law or when the structure presents significant shortcomings, as recorded in a decision of the building authority, or when the building does not comply with the local environment or landscape requirements, as laid down in the local authority's binding regulations. In such cases, depending on the situation, the local authority shall determine the owner's duty to put the building into conformity with the relevant regulations, by taking the appropriate measures, including the demolition of dangerous structures, where needed. The works to be carried out and the time-schedule are agreed with the building authority. If the owner fails to carry out the measures required to put the situation into conformity, the local government can decide the forced execution of the administrative act, in conformity with the Administrative Procedure Law. The local government council or institution thereof takes a decision to put in order the structure only to the extent as to prevent danger and threat to human safety.

According to the report, if the lessors fails to provide the obligatory essential services referred to under the Law on Residential Tenancy (Article 11§3), the tenant is entitled to damage compensation, through Court procedure. The tenant is furthermore entitled to relocation on an equivalent residential space (Articles 28§3-4 of the Law), if the lessor decides to demolish the rented dwelling or to perform major repair works. In case of violation of the law, rental boards in local governments can draw up administrative protocols (Article 48 of the Law).

The Committee asks how the adequacy of the entire housing stock (whether rented or not, privately or publicly owned) is checked, whether regular inspections are carried out, whether the risk of exposure to lead and asbestos is also checked, whether decisions finding that a dwelling does not comply with the relevant regulations are binding and what follow-up is accordingly given.

Legal protection

As regards the remedies available to ensure adequacy of housing, the report merely states that all disputes between tenant and lessor are resolved in court. The Committee takes note of the information provided in respect of Article 16 of the Charter, concerning the procedures which apply in case of eviction. It notes that according to the State Guaranteed Legal Aid Law, the State provides legal assistance in civil cases outside the court and in court notably if the person fulfils the criteria to be considered "poor", is not in a condition to protect his/her rights or is in public care.

The Committee asks for the next report to describe which cases, concerning the right to adequate housing, might be brought before the courts and whether extra-judicial remedies are also available concerning this right, also in case of excessive waiting-time for access to housing. In this connection, it also asks the next report to provide information on the existing case-law and the effectiveness of the appeal procedure. Meanwhile, it reserves its position on this point.

Measures in favour of vulnerable groups

The Committee previously took note (Conclusions 2015) of the measures taken to support vulnerable categories in housing matters. It noted that assistance in this field was autonomously managed by the municipalities, in accordance with the procedures laid down in relevant laws and regulations, in particular the Law on Social Services and Social Assistance and the Law on Assistance in Solving Apartment matters. The Committee also took note of the Strategy on Social Safety Net 2009-2011 and of the information concerning the housing allowance. It noted that assistance in housing matters was provided irrespective

of ethnic origins and asked what measures were taken to protect the right of Roma in this field.

The report details the types of housing assistance available (provision of temporary housing, renting out of social or state-owned housing, allowances for the renovation of housing, support to the purchase or construction of housing, etc.) and provides detailed data on the number of housing allowance recipients, which has been decreasing by 30% in terms of individuals and by 20% in terms of households during the reference period (from 133 864 individuals in 2014 to 93 748 in 2017, from 73 629 households to 58 743 in the same period), the resources spent on housing allowance have also decreased by 19%, while the average amount of housing allowance per person per year and per month has increased by more than 15% (from €152.94 to €176.77 and from €12.74 to €14.73). The Committee also takes note of the information provided on the housing fund situation in Riga and of the measures taken and under way to improve thermal insulation of multi-apartment residential buildings (information provided in the report under Article 16 of the Charter).

As regards the situation of Roma, the report explains that, although there are no specific measures targeted to Roma as regards housing, they are entitled to housing assistance on the same grounds as other vulnerable groups, on the basis of income criteria. The report refers to a survey carried out in 2015 (Roma in Latvia), according to which 75-80% of Roma families encounter difficulties regarding availability and quality of housing. According to this survey, the housing and living conditions of Roma are lower than the average level of the rest of the population, their housing is most likely to be without shower or bathroom (55.9%), flush toilets (42,1%) or water supply (26%) and is also likely to be overcrowded (4-6 persons per household, against 2-3 on average for the rest of the population). The study results convey that Roma make an active use of the assistance the municipalities and NGOs provide in housing area, in particular more than half of them (53.7%) had received housing benefits. However, the study indicates that increased efforts would be needed to provide assistance to housing repair. In this respect, the report states that, in cooperation with local government housing experts and housing managers different issues associated with the supply of housing are being settled and housing management skills of Roma inhabitants, as well as understanding of the need to pay for public utilities is enhanced by discussing matters with the debtors and explaining possible consequences.

The Committee notes takes note of the recommendations formulated in the above mentioned survey and asks the next report to provide updated information on the implementation of the measures under way or planned to improve the adequacy of housing in general and in particular for vulnerable groups, including Roma. In the light of the information available, it considers meanwhile that the situation is not in conformity with Article 31§1 of the Charter on grounds that the measures taken to improve the substandard housing conditions of Roma are insufficient.

Conclusion

The Committee concludes that the situation in Latvia is not in conformity with Article 31§1 of the Charter on the ground that the measures taken to improve the substandard housing conditions of Roma are insufficient.