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EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2019

TURKEY

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 Turkey on 27 June 2007. The time limit for submitting the 11th report on the application of this treaty to the Council of Europe was 31 October 2018 and Turkey 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).

Turkey has accepted all the Articles from this group.

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

The present chapter on Turkey concerns 36 situations and contains:

- 8 conclusions of conformity: Articles 7§6, 7§7, 7§9, 8§3, 8§4, 19§3, 19§5 and 19§7;
- 20 conclusions of non-conformity: Articles 7§1, 7§2, 7§4, 7§5, 7§10, 8§1, 8§2, 8§5, 16, 17§1, 19§1, 19§4, 19§6, 19§8, 19§10, 27§2, 27§3, 31§1 and 31§2.

In respect of the other 8 situations concerning Articles 7§5, 17§2, 19§2, 19§9, 19§11, 19§12, 27§1 and 31§3, 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 Turkey under the Revised Charter. The Government consequently has an obligation to provide this information in the next report from Turkey on the articles in question.

The next report from Turkey 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 Turkey.

The Committee previously noted (Conclusions 2011) that the employment of children under the age of 15 is prohibited; however, children who have reached the age of 14 and completed their primary education may be employed in light work which does not hinder their physical, mental and moral development and the education of those who attend school. It also examined the list of light work that children who reached the age of 14 could perform (Conclusions 2015).

The Committee notes from the report that according to Article 71 of the Labour Law as amended in 2015, children below the age of 14 may be employed in artistic, cultural and advertising activities which will not harm their physical, mental, social and moral development and the education of those who attend school, on the condition that a written contract is signed and a permission is obtained separately for each activity.

In its previous conclusion (Conclusions 2015), the Committee took note of the result of the survey on child labour of the Turkish Statistical Institute according to which the rate of children engaged in domestic affairs was of 49.2%. The Committee recalled that States are required to monitor the conditions under which work done at home is monitored in practice and asked the next report to indicate whether the State authorities monitor work done at home by children under the age of 15 and what their findings were in this respect. The Committee pointed out that should the next report not provide the information requested, there would be nothing to establish that the situation was in conformity with Article 7§1 of the Charter.

The Committee notes that the current report does not provide any information on this point. It therefore concludes that the situation in Turkey is not in conformity with Article 7§1 of the Charter on the ground that it has not been established that work done at home by children under the age of 15 is monitored in practice.

In its previous conclusion (Conclusions 2015), the Committee noted from the CEACR Observation adopted in 2014 on the Minimum Age Convention that child Labour in Turkey is found in the urban informal sector, in the domestic service and in seasonal agricultural work. The Committee asked the next report to indicate what were the measures taken by the authorities to detect cases of children under the age of 15 working in the above-mentioned sectors. The Committee also recalled that the situation in practice should be regularly monitored and asked the next report to provide information on the measures taken to eliminate child labour, including measures to establish child labour monitoring systems, as well as on violations identified and sanctions applied by the Labour Inspectors.

The current report indicates that the National Employment Strategy Action Plans (2014-2023) set a goal to eliminate the worst forms of child labour, particularly work in the streets, heavy and hazardous work in industry, seasonal, travelling and temporary agricultural work by 2023 and to reduce child labour in other fields fewer than 2%.

The report provides information on projects carried out by MoFLSS (Ministry of Family, Labour and Social Services), with the partnership of the ILO, in order to prevent child labour of children working in seasonal agriculture and to enable such children to be taken away from working life and directed to education. According to the report, in order to monitor the seasonal agricultural workers, their children and the school attendance of the children at the compulsory school age, data sharing cooperation has been carried out between MoFLSS and the Ministry of National Education. The Committee takes note also of the various awareness-raising and information activities described by the report carried out by the MoFLSS through workshops, panels, public spots and printed materials on fighting against child labour.

The Committee also notes from another source (Observation (CEACR) – adopted 2017, published 107th ILC session (2018), Minimum Age Convention, 1973 (No. 138), Turkey) that “the Ministry of Education adopted the Circular No. 2016/5 “Access of Children of Seasonal

Agriculture Workers and of nomadic and Semi-Nomadic Families do Education” in March 2016, according to which follow-up teams are established to find children who could not continue their education and enrol them in school.

As regards supervision, the report indicates that according to Article 71 of the Labour Law No. 4857, inspections concerning the prohibition of the employment of children under the age of 15 are carried out by the Directorate of Guidance and Inspection (DGI). In cases of detection of child labour, the DGI imposes administrative sanctions on the employers. According to the report, over the reference period, administrative fines of 307.786,00 TL (EUR 67.838,4) were imposed on 207 employers who were found to be in violation of the relevant regulations.

The report also indicates that in the scope of the Children’s Rights and Labour Principles Programme, with the cooperation of DGI and UNICEF, 404 labour inspectors were trained in 2017, in order to strengthen the institutional capacity. According to another source (Direct Request (CEACR) – adopted 2017, published 107th ILC session (2018), Worst Forms of Child Labour Convention, 1999 (No. 182), Turkey), child labour monitoring units were established within the provincial directorates of labour and employment agencies of the Ministry of Labour and Social Security in five pilot provinces (Adana, Sanliurfa, Gaziantep, Kocaeli and Ordu). The Committee asks the next report to provide information on the findings of such monitoring units regarding the illegal employment of children under the age of 15.

The report further indicates that activities were carried out in the scope of prohibition of child labour, among which the Committee notes, in particular, the field survey conducted in 2017 by the Adana guidance and Inspection Department on Child Labour in Open Land Agricultural Work in Adana and Sanliurfa provinces. The Committee asks the next report to provide information on the findings of this survey.

In its previous conclusion (Conclusions 2011 and 2015), the Committee concluded that the situation in Turkey was not in conformity with Article 7§1 of the Charter on the ground that the prohibition of employment under the age of 15 was not guaranteed in practice. In particular, the Committee noted by the data resulting from the 2012 survey conducted by the Turkish Statistical institute that there has been an increase in the number of children aged 6 to 14 years who were in child labour. According to the survey, the number of working children between 6 and 14 years of age was 292.000, which means 2.6% of children between 6 and 14 were found to be involved in work. The Committee notes from the report and from the CEACR Observation on the Minimum Age Convention adopted in 2017 that there is no new statistical information on the extent of child labour.

The Committee notes from another source (Information Document SG/Inf(2016)29, Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 30 May – 4 June 2016) that “the employment of children under the age of fifteen remains a considerable problem in Turkey. Although it also affects Turkish children, the influx of refugees has led to an explosion of Syrian children working especially in textile factories and agriculture”, with pitiful hourly wages. According to the same source, “children’s exposure to exploitation and physical and moral hazards creates a serious threat to their enjoyment of their most basic rights”.

The Committee recalls that the prohibition of the employment of children under the age of 15 applies to all economic sectors, including agriculture, and all places of work, including work within family enterprises and in private households (Conclusions I (1969), Statement of Interpretation on Article 7§1). It further recalls that the prohibition also extends to all forms of economic activity, irrespective of the status of the worker (employee, self-employed, unpaid family helper or other).

Despite the measures taken by the authorities, in the light of the number of children working according to information at the Committee’s disposal, it maintains its conclusion of non-conformity on the ground that the prohibition of employment under the age of 15 is not guaranteed in practice.

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

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§1 of the Charter on the grounds that:

- it has not been established that work done at home by children under the age of 15 is effectively monitored;
- the prohibition of employment under the age of 15 is not guaranteed in practice.

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 Turkey.

The Committee previously noted (Conclusions 2015) that the Regulation No. 25425 on the “Employment Procedures and Principles on Children and Young Workers” was amended in 2013 by the Regulation No. 28566/21.02.2013. It also noted that the annexes to this latter Regulation specify/list the types of light work that children are allowed to perform (Annex 1), types of work permitted for young persons between the ages of 15-18 (Annex 1 and 2) and an additional list of types of works permitted to young persons of 16 but who did not turn 18 (Annex 3).

The Committee further noted (Conclusions 2015) that according to the amendments brought by the Regulation No. 28566/21.02.2013 to the Regulation No. 25425 on the “Employment Procedures and Principles on Children and Young Workers”, workers who have not turned 18 cannot be employed in work which involve dangerous and unhealthy tasks such as: production and wholesale of alcohol, cigarettes and addictive substances; the production and wholesale of combustible, explosive, harmful and dangerous substances and their processing, storing and all sorts of work which involves exposure to such substances; work in excessive hot and cold environment.

In its previous conclusion (Conclusions 2015), the Committee noted from the CEACR Direct Request on the Worst Forms of Child Labour Convention (2014) that under the terms of section 4 of the Labour Act, several categories of workers are excluded from its scope of application, including workers in businesses with fewer than 50 employees or carrying out agricultural and forestry work, building work in relation to agriculture within the limits of the family economy and domestic service. The Committee asked the Government to indicate whether Regulation No. 25425, as amended, applies to those sectors excluded from the scope of application of the Labour Code.

The current report indicates that the latter Regulation is valid only for the works within the scope of application of the Labour Law. The Committee notes from another source (Observation (CEACR) – adopted 2017, published 107th ILC session (2018), Worst Forms of Child Labour Convention, 1999 (No. 182), Turkey) that the domestic service where children and young persons can be employed is covered by the Code of Obligations No. 6098, of which section 417 (2) provides for employers’ obligation to ensure occupational health and safety at the workplace, and prohibits psychological and sexual abuse.

In its previous conclusion (Conclusions 2015), the Committee noted that according to the Confederation of Turkish Trade Unions worst forms of child labour continue to exist in the furniture sector in practice. It asked information in the next report on the inspections undertaken by labour inspectors in this sector and their findings.

The report indicates that in 2014 and 2016 the Department of Guidance and Inspection conducted scheduled inspections in terms of occupational health and safety in the furniture sector and that no violation was detected regarding age of employment and prohibition of employment. The Committee further notes from another source (Direct Request (CEACR) – adopted 2017, published 107th ILC session (2018), Worst Forms of Child Labour Convention, 1999 (No. 182), Turkey) that the Government indicates that from 2013 to 2016 the Presidency of Labour Inspection Board conducted scheduled inspections at 172 workplaces in the furniture manufacturing in two provinces, including undertakings less than 50 employees, and that no violations were detected regarding the employment of children.

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 implementation in practice of the Regulation No. 25425 on the “Employment Procedures and Principles on Children and Young Workers” as amended in 2013, on the number and nature

of violations detected as well as on sanctions imposed for breach of the rules regarding the prohibition of employment under the age of 18 for dangerous or unhealthy activities.

The current report indicates that over the reference period, the Directorate of Guidance and Inspection carried out audits and imposed administrative fines of the amount of 307.786,00 TL (€67.838,4) on 207 employers who were found to be opposing to the provisions of article 71 of the Labour Law No. 4857 and the related regulation. In addition, the report indicates that following inspections carried out over the reference period on complaints and notices, administrative fines of 7.537,00 (TL) (€1.661,21) have been imposed to 5 employers active in the wood and paper sector and which are determined not to comply with the age of employment and the prohibition of employment. The Committee notes that the report does not provide information on the monitoring activities and findings of the labour inspectors with specific regard to the violation of the rules regarding the prohibition of employment under the age of 18 for dangerous or unhealthy activities. It therefore asks the next report to provide the relevant information.

According to another source (Observation (CEACR) – adopted 2017, published 107th ILC session (2018), Worst Forms of Child Labour Convention, 1999 (No. 182), Turkey) “according to the Child Labour Survey 2012, the number of children employed in industry dropped considerably, but that there was a sharp increase in the number of those employed in agriculture and services”. According to the same source “children working in certain sectors of the economy, in particular those working in the informal economy, and the domestic and agricultural sectors, constitute high-risk groups who are usually outside the normal reach of labour controls and vulnerable to hazardous working conditions”. The Committee notes from the same source that “no labour inspection activities covering seasonal agricultural work, in particular the activity of hazelnut picking, was carried out during 2013-2016”. The Committee asks the next report to provide information on the measures taken to ensure that all children under 18 years of age are protected from hazardous and dangerous work, including those working in seasonal agricultural work and those working outside a labour relationship or out of the reach of labour controls.

The Committee refers to its conclusion on Article 7§1 where it noted from another source (Information Documents SG/Inf (2016) 29, Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 30 May – 4 June 2016) that “the employment of children under the age of fifteen remains a considerable problem in Turkey”. Moreover, the same source indicates that not only Turkish children are affected, but “the influx of refugees has led to an explosion of Syrian children working especially in textile factories and agriculture”, with pitiful hourly wages. According to the same source, “children’s exposure to exploitation and physical and moral hazards creates a serious threat to their enjoyment of their most basic rights”.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§2 of the Charter on the ground that the prohibition of employment under the age of 18 for dangerous or unhealthy activities is not effectively guaranteed.

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 Turkey.

The Committee recalls that according to the Labour Law the employment of children under the age of 15 is prohibited; however, children who have reached the age of 14 and completed their primary education may be employed in light work which does not hinder their physical, mental and moral development and the education of those who attend school. It also previously noted the list of light work that children who reached the age of 14 could perform (Conclusions 2011 and 2015).

The Committee notes from the information provided in the report that according to Article 71 of the Labour Law as amended in 2015, children who have not completed the age of 14 may be employed in artistic, cultural and advertising activities which will not obstruct their physical, mental, social and moral development and the education of those who attend school, on the condition that a written contract is signed and a permission is obtained separately for each activity.

In its previous conclusion (Conclusions 2015), the Committee examined the legislation concerning working time for children under the age of 15 still subject to compulsory schooling and concluded that the situation in Turkey was not in conformity with Article 7§3 of the Charter on the ground that the duration of light work permitted to children subject to compulsory education during school holidays is excessive.

The Committee notes from the information contained in the current report that there has been no change to this situation. It therefore reiterates its previous finding of non-conformity on this point.

In its previous conclusion (Conclusions 2015), the Committee noted that according to the results of the Child Labour Force Survey of 2012 conducted by the Turkish Statistical Institute, 49.8% of the working children go to school, while 50.2% do not attend school. It noted also that 3.2% of the children between 6-17 years of age still in school are engaged in economic activities, 50.2% of them in domestic affairs and 46.6% of them are not engaged in any activity. The Committee asked the next report to provide detailed information/statistics on the number of children still subject to compulsory education who are engaged in any type of work.

In this respect, the current report provides the same data resulting from the Child Labour Force Survey of 2012. The Committee notes from the report that there is no more recent data on child labour, given that the next Child Labour Survey was planned for 2019. The Committee asks the next report to provide the relevant up-to-date information.

The Committee takes note of the statistics on schooling rates concerning the years 2014-2017 provided by the national report. The Committee notes in particular that over the academic year 2017-2018, the net schooling rate of children aged 6-9 was 98.35%, it was 98.62% for children aged 10-13 was and it was 87.64% for children aged 14-17.

In its previous conclusion (Conclusions 2015), the Committee took note from the report of the measures taken by the Government to increase the rate of school attendance and it asked to be informed on the development of relevant measures in the next report.

The report indicates that in 2017 the Ministry of National Education sent two official letters to the National Education Directorates containing the works to be carried out by national education and school/institution directorates in order to reduce absenteeism in schools, including awareness raising activities for parents and recording of the absenteeism of the students.

The Committee refers to its conclusion on Article 7§1 with regard to the projects carried out by the MoFLSS with the objective of preventing and eliminating child labour.

As regards monitoring child labour and findings of the authorities, the Committee refers to its conclusion on Article 7§1. It notes that the current report does not provide information on the monitoring activities and findings of the labour inspectors with specific regard to children still subject to compulsory schooling. It therefore asks the next report to provide the relevant information, including in particular the number of inspections conducted, the number of violations found and the sanctions imposed in practice with specific regard to children still subject to compulsory schooling.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§3 of the Charter on the ground that the duration of light work permitted to children subject to compulsory education during school holidays is excessive.

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 Turkey.

In its previous conclusion, the Committee noted that according to Section 71 of the Labour Law, young workers under 16 years of age may work up to 8 hours per day and 40 hours a week and concluded that the situation in Turkey was not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for young workers under the age of 16 years is excessive.

The report indicates that the above mentioned Article 71 of the Labour law was amended in 2015, providing that working hours for children who have completed their compulsory primary education and do not continue to receive formal education shall not be longer than 7 hours a day and 35 hours a week; these hours shall not be longer than 5 hours a day and thirty hours a week for those working in artistic, cultural and advertising activities. That period may be increased to 8 hours a day and 40 hours a week for children who have completed the age of 15.

The Committee recalls that for persons under 16 years of age, a limit of 8 hours a day or 40 hours a week is contrary to Article 7§4 of the Charter (Conclusions XI-1 (1991), Netherlands). However, for persons over 16 years of age, the same limits are in conformity with the Article (Conclusions 2002, Italy).

In the light of the above, considering that children under the age of 16 may still be allowed to perform work up to 8 hours a day and 40 hours a week, the Committee reiterates its finding of non-conformity on this point.

As regards supervision, the Committee refers to its conclusion on Article 7§1 where it noted the number of inspections conducted and sanctions applied in cases of violations. It notes that the current report does not provide information on the monitoring activities and findings of the labour inspectors with specific regard to children and young workers under the age of 18 who are not subject to compulsory schooling. It therefore asks the next report to provide the relevant information, including in particular the number of inspection conducted, the number of violations found and the sanctions imposed in practice with specific regard to children and young workers under the age of 18 who are not subject to compulsory schooling.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for young workers under the age of 16 years is excessive.

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 Turkey.

Young workers

Since Turkey 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 of the Charter. For this purpose, the ratio between net minimum wage and net average wage is taken into account. In order to assess the situation, the Committee asked for information on the minimum wage of young workers calculated net. It also requests information on the net starting wage or net minimum wage of adult workers as well as on the net average wage.

The report states that, before 2014, the minimum wage was determined for two different age groups: workers who were 16 and the rest. As of 1 January 2014, the minimum wage is applied in the same way for both categories, as a result of the decision of the Minimum Wage Commission in 2014. As of that date, the same minimum wage is determined for all age groups. The report does not contain any information on the minimum wage, neither gross nor net values, and neither on the net average wage.

Therefore, the Committee reiterates its question and underlines that it requests the next report to contain information on the net minimum wage value, that is, after deduction of taxes and social security contributions, and net average wage. Net calculations should be made for the case of a single person. Should the report not contain information on this point, there will be no elements to consider the situation to be in conformity with the Charter on this point.

Pending receipt of the information requested, the Committee reserves its position on this point.

Apprentices

The Committee previously asked information on the allowances paid to apprentices during the apprenticeship and whether the allowance increases towards the end of apprenticeship (Conclusions 2011. 2015). It concluded in 2015 that, due to the lack of information, the situation was not in conformity with Article 7§5 of the Charter on the ground that it was not established that the allowances paid to apprentices were appropriate.

The Committee recalls that under Article 7§5 of the Charter, 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 states that the Law on Vocational Education (Law No. 3308) was amended by the "Law Amending the Decree Law on the Organization and Duties of the Ministry of National Education and Certain Laws and Decree Laws" in December 2016. Accordingly, the apprentice cannot be paid less than thirty percent of the minimum wage for his/her age. In addition, for those apprentices following vocational training in enterprises, students of vocational and technical secondary schools attending an internship, complementary education or field training, receive over fifty percent of the minimum wage. The report does not contain any information on the situation in practice and no information is provided on the amount of the allowance paid to apprentices at the end of the apprenticeship. The Committee previously asked what the situation was with regard to the allowances paid to the apprentices in practice and the amount paid at the end of the traineeship.

Given the lack of information, the Committee concludes that the situation is not in conformity with Article 7§5 of the Charter on the ground that it has not been established that the allowances paid to apprentices are appropriate.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§5 of the Charter on the ground it has not been established that the allowances paid to apprentices are appropriate.

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 Turkey.

The Committee concluded previously that the situation in Turkey was not in conformity with Article 7§6 of the Charter on the ground of a repeated lack of information providing evidence that time spent by young workers on vocational training is included in the normal working time and remunerated as such (Conclusions 2015).

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 is no change in the legislation, which established that when the worker is sent by the employer, the time spent in the courses and the time spent in the vocational training programs organized by the authorized institutions and organizations are counted as working time. The report further indicates that the Labour Inspectorate (Directorate of Guidance and Inspection) monitors the situation in practice and between 2014 and 2017 imposed fines on 207 employers for violating this rule. The total amount of the fine was 307.786,00 TL.

There is no indication on the total number of apprentices, the number of apprentices who benefited of vocational training, or on the number of labour inspections conducted. The Committee asks the next report to provide information on the situation in practice and on the monitoring activities of the Labour Inspectorate, including the number of inspections and the level of fines imposed for breach of the applicable rules.

Conclusion

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

The Committee previously noted that the paid annual leave that shall be granted to children and young workers cannot be less than 20 days, as it is for adult workers. The Committee further considered the situation to be in conformity with the Charter, as young workers are not allowed to waive their right to annual leave in return of financial compensation.

The Committee previously asked for information on the monitoring activity of the Labour Inspectorate and on the fines imposed on employers for breach of the regulations regarding paid annual holidays of young workers. The report states that between 2014 and 2017, an administrative fine of 307.786,00 TL was imposed to 207 employers who did not respect the provisions of Article 71 of the Labour Law regarding paid annual leave.

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

Conclusion

Pending the information requested, the Committee concludes that the situation in Turkey 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 Turkey.

The Committee previously found the situation in Turkey not to be in conformity with Article 7§8 of the Charter on the ground that night work for workers under 18 years of age is prohibited only in industrial undertakings (Conclusions 2011, 2015).

The report indicates that in accordance with Article 5, paragraph 6 of the Regulation on the Principles and Procedures for the Employment of Children and Young Workers No. 25425, that entered into force after 2004, workers under 18 years old shall not be employed in night work. The Regulation on the Special Procedures and Principles for Working in Works Carried Out by Shift Workers, that entered into force after being published in the Official Gazette of 7 April 2004 No. 25426 further prohibits night work for workers under 18 years old.

The report states that there have been no changes to the situation which the Committee previously found to be in non-conformity during the reference period. However, the report specifies that the legislation and regulations cited prohibits night work for workers under 18 years old, and it does not only apply to industrial work. The report further indicates that an administrative fine of 307.786,00 TL was imposed by the Directorate of Guidance and Inspection on 207 employers who were found to be in breach of this rule.

The Committee asks for further clarification on the exact situation of workers under 18 and whether this legislation was already applied and continues to be applied. The Committee would also ask whether there is any exception to night work for workers under 18 years old and whether this situation has therefore changed.

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

Conclusion

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

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 Turkey.

The Committee noted previously that prior to recruitment children and young workers between 14 and 18 must undergo an obligatory medical examination, and have it certified by medical health reports that they are physically fit with regard to the qualifications and conditions of work. They must undergo regular check-ups every 6 months until they reach the age of 18. According to Section 15 of the Law on Occupational Health and Safety No. 6331 which entered into force on 30.06.2012, the employer shall ensure the medical examinations of the employees at recruitment and at regular intervals during employment. The employer shall cover all expenses arising from medical examinations.

The Committee previously asked whether some categories of young workers were exempted from the medical examination requirement. The report indicates that there is no sector or working group exempted from medical examination, except military and law enforcement activities. A person working on his own account, as well as those working in domestic services, prisoners in detention and detention houses are excluded from the applicability of this rule.

The Committee previously asked information on the monitoring activity of the Labour Inspectorate. The report does not provide any information in this sense, aside from the fact that those employers who do not respect the obligation regarding the medical examinations are subject to an administrative fine of one thousand Turkish Lira per employee. The Committee recalls that the situation in practice should be regularly monitored and asks how the State authorities monitor the observance of the applicable rules in practice. It also asks the next report to provide information on the number and nature of violations detected by the monitoring bodies (eg the Labour Inspectorate, health services) as well as on sanctions imposed on employers in practice for breach of the rules concerning the medical examination of young persons under 18 years of age.

Conclusion

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

Protection against sexual exploitation

The Committee notes that Article 103 of the Penal Code criminalises sexual abuse/exploitation of a minor. This term includes any act of a sexual nature against a minor who is under the age of 15 years or who, although having reached the age of 15 years, is unable to understand the meaning and consequences of such an act, as well as sexual acts committed against a minor with the use of force, threats, deception or any other method that affects the will of the child. Further Article 104 of the Penal Code provides that “Any person who engages without any force, threat or deceit, in sexual intercourse with a minor who has completed fifteen years of age shall be sentenced to a penalty of imprisonment for a term of two to five years.”

The Penal Code also criminalises the use or facilitation of children in prostitution. The Committee asks whether this covers all children under the age of 18 years.

In its previous conclusion (Conclusions 2015), the Committee asked whether legislation criminalise all acts of sexual exploitation of children, including the simple possession of child pornography depicting children under the age of 18, regardless of the legal age of sexual consent. It stated that if this information was not provided there would be nothing to establish that the situation was in conformity with the Charter. The report does not provide this information. Therefore the Committee considers that it has not been established that all acts of sexual exploitation of children are criminalised.

The Committee asks for information in the next report on all measures taken to address the problem of the sexual exploitation of children.

The Committee previously found that the situation was not in conformity with the Charter on the grounds that it had not been established that child victims of sexual exploitation cannot be prosecuted (Conclusions 2015, 2017).

The Committee notes that the report does not provide information on possible prosecution of child victims of sexual exploitation for any act related to such exploitation.

It therefore considers that the situation is still not in conformity with the Charter as it has not been established that child victims of sexual exploitation cannot be prosecuted.

Protection against the misuse of information technologies

The report does not provide information on developments regarding the protection of children against the misuse of information technologies.

The Committee requests information on any new measures adopted in law and practice to combat sexual exploitation of children through the use of Internet technologies.

Protection from other forms of exploitation

In its previous conclusion (Conclusions 2015) the Committee requested to be informed about the adoption of the draft law on fight against human trafficking and protection of victims and asked that the next report provide up-to-date information concerning incidence of child trafficking and sexual exploitation. The report does not provide this information.

According to the Report of GRETA concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Turkey (2019), there were 170 children among the victims identified during the period 2014-2018 (i.e. 22% of all victims). GRETA notes that the number of child victims of trafficking identified in Turkey has increased over the years (two in 2014, 26 in 2015, 29 in 2016, and 98 in 2017). The majority of them were Syrian children exploited for begging.

The Committee requests that the next report provide full information on the extent of the trafficking of children as well as measures taken to address the problems. The Committee considers that if this information is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

With regard to children in a street situation, the Committee notes from the Report of GRETA mentioned above that the number of children in street situations in large cities, such as Istanbul, is important. Some of them are forced to beg by their families, while others are subjected to forced prostitution.

According to the report, Child Support Centres, affiliated to the Ministry of Family and Social Policies, have been established since 2014. Also, the “Anka Child Support Programme” was developed in 2015 for children in a street situation.

In addition, the Ministry of Labour, Social Services and Family, pursuant to the Child Protection Law, has set up mobile teams in order to identify children in street situations or forced to work, and to ensure immediate intervention.

According to the GRETA report mentioned above, there were 134 mobile teams in the 81 provinces, which have been in contact with 13 372 children in street situations, including refugee and migrant children.

In addition, the Committee notes from the ILO Direct Request (CEACR), adopted at the 107th ILC session (2018) that the National Employment Strategy Action Plan (2014-2023) set a goal to eliminate the worst forms of child labour, including street work.

The Committee notes that it has been widely reported [for example by the Child Labour Coalition] that child labour remains a significant problem in Turkey in particular among migrant children/children with protected status in sectors such as agriculture (for example harvesting hazelnuts) and the garment industry.

The Committee requests updated information on measures taken to protect and assist children in vulnerable situations, with particular attention to children in street situations and children at risk of child labour, including those in rural areas and with protected status.

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 .

Meanwhile it reserves its position on the conformity of the situation.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 7§10 of the Charter on the grounds that it has not been established that:

- child victims of sexual exploitation cannot be prosecuted;
- all acts of sexual exploitation of children under the age of 18 years are criminalised.

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 Turkey.

Right to maternity leave

In its previous conclusions (Conclusions 2015 and 2011), the Committee asked if, under the relevant legislation (the Labour Law, the Civil Service Law and the Press Labour Law), postnatal leave was compulsory or if it could be shortened at the employee's request.

In reply, the report states that under Article 74 of the Labour Law (Law No. 4857), employees are entitled to 8 weeks' maternity leave before the birth of their child and 8 weeks of compulsory leave after. Under Law No. 657 on the Civil Service, the same rule applies to public sector employees. Where pregnancy proceeds without complications, the employee may postpone five weeks of her leave until after the birth. Yet, it is compulsory to take three weeks before (in both the private and the public sectors).

The Committee noted previously (Conclusions 2011 and 2015) that the Law on Labour Relations in the press sector established separate rules for journalists. According to Article 16 of that law, employees were entitled to maternity leave from the seventh month of pregnancy up to the end of the second month after the birth. However, the Committee notes from the report that Article 74 of the Labour Law (as amended during the reference period) now applies to all categories of workers in wage employment, including those covered by the Law on Labour Relations in the press sector.

Right to maternity benefits

In its previous conclusion (Conclusions 2015), the Committee found that the situation was not in conformity with Article 8§1 of the Charter on the grounds that the amount of maternity benefits paid to workers in the press sector was insufficient. Consequently, it asked to clarify the conditions of entitlement to maternity benefits and their amount for employees in that sector. It also asked whether a woman earning more than the minimum wage was also entitled to an allowance corresponding at least to 70% of her previous wage.

In reply, the report states that a woman earning the minimum wage receives daily maternity benefit amounting to 83% of her net wage. According to the report, a payment of 66% of the gross wage corresponds to 83% of the minimum net wage. As to the workers on maternity leave whose pay is higher than the minimum wage, 83% of the net wage is paid as a maternity-related temporary disability benefit. The report also states that the lower limit on daily pay is a thirtieth of the minimum wage, and the upper limit for an insured person is 7.5 times the lower limit on daily pay. The Committee notes from the report that the calculation of the benefit for women earning a gross daily wage exceeding the upper limit stands at the statutory limit. In the light of the amendment to Article 74 of the Labour Law (see above), the Committee considers that maternity benefits paid to employees in the press sector are calculated in the same way as they are for other employees in the private sector. However, the Committee notes that the report leaves these questions partly unanswered, so it reiterates them. In particular, it requests information on the percentage of women earning a gross daily wage higher than the statutory upper limit and the salary range of this category, or at least, the average monthly wage for executive women.

According to the Eurostat data for 2016, the gross minimum monthly wage in Turkey was €516.11 (two-thirds of the minimum was €340.60).

The Committee points out that, under Article 8§1 of the Charter, maternity benefits must be at least equal to 70% of the employee's previous wage. In the light of the above, the Committee considers that the situation is not in conformity with Article 8§1 of the Charter on the grounds that the amount of maternity benefits provided to women employed in the private is inadequate.

The Committee requests again information on the percentage of women earning a gross daily wage higher than the upper limit set by the law (i.e. 6.5 x the gross minimum daily wage) and on the salary range in this category, or at least, the average monthly wage for executive women.

In its previous conclusion (Conclusions 2015), the Committee also asked whether the provisions concerning the temporary incapacity allowance during maternity leave applied without restrictions to the nationals of States Parties to the Charter who were lawfully residing in Turkey. In reply, the report states that everyone is entitled to this right provided they have met the conditions to be granted a temporary incapacity allowance (i.e. employees are required to have contributed for at least 90 days in the preceding year).

The Committee previously noted (Conclusions 2011) that a woman is entitled to maternity benefit if she has paid contributions to the insurance scheme for a minimum of 90 days over a period of one year prior to birth. In this regard, the Committee asks that the next report provide information regarding the right to any kind of benefits for the working women who do not qualify for maternity benefit during maternity leave.

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

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

The Committee notes that no Eurostat data are available for 2017 concerning the annual median equivalised income or the poverty threshold. The latest Eurostat data available relate to 2016. The median equivalised income that year was €3,755 or €313 per month. 50% of the median equivalised income was €1,878 per year, or €156.50 per month.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 8§1 of the Charter on the ground that the amount of maternity benefits provided to women employed in the private sector is inadequate.

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 Turkey.

Prohibition of dismissal

As regards employees in the private sector covered by the Labour Act (No. 4857), the Committee noted in its previous conclusion (Conclusions 2015) that, pursuant to Section 18 of the Labour Act, employees with an open-ended contract working for at least six months in an enterprise employing thirty staff or more were explicitly protected against dismissal based on pregnancy or maternity leave. Nevertheless, the Committee found that the situation was not in conformity with Article 8§2 of the Charter, as there was no adequate protection in the Labour Act against dismissal during pregnancy or maternity leave. This concerned the grounds for dismissal provided for in Section 18 of the Labour Act that went beyond the exceptions allowed under Article 8§2 of the Charter and the dismissal without specific reasons of employees with an open-ended contract who had been working for less than six months in an enterprise or worked in an enterprise employing less than 30 staff. The Committee also noted that the Turkish legislation allowed for a wide list of exceptions, which seemed to go beyond the notion of “misconduct which justifies the breaking of the employment relationship” and considered, in particular, that the dismissal of an employee during pregnancy or maternity leave for reasons of health, even when the employee was responsible for her sickness or accident, was not in conformity with Article 8§2 of the Charter.

The report indicates that there was no change in the situation during the reference period. The Committee therefore reiterates its finding of non-conformity.

In its previous conclusion, the Committee requested clarifications concerning the admissible grounds for dismissal and the protection offered to women employed in the public sector on temporary contracts. It stated that, in the absence of this information, there would be nothing to establish that the situation was in conformity with the Charter in this respect. As the report does not provide the clarifications requested, the Committee reiterates its request and holds in the meantime that the situation is not in conformity with Article 8§2, on the ground that it has not been established that adequate protection is provided for in cases of unlawful dismissal during pregnancy or maternity leave in the case of women employed in the public sector on temporary contracts.

In its previous conclusion (Conclusions 2015), the Committee asked whether different rules for dismissals during pregnancy or maternity leave applied to employees covered by the Press Labour Act (No. 5953) or by other legislation that derogated from the Labour Act. The report does not answer the question so the Committee repeats it. It points out that if the information requested is not provided in the next report, there will be nothing to show that the situation in Turkey is in conformity with Article 8§2 of the Charter on this point.

Redress in case of unlawful dismissal

In its previous conclusion (Conclusions 2015), the Committee found that the situation was not in conformity with Article 8§2 of the Charter because not all employed women were entitled to reinstatement in the case of unlawful dismissal during pregnancy or maternity leave. Since there has been no change in this situation, the Committee reiterates its finding of non-conformity.

The Committee also requested (Conclusions 2015 and 2011) information concerning the remedies available to employees on fixed-term contracts and to civil servants (including those on fixed-term contracts) in the case of unlawful dismissal during pregnancy or maternity leave. It stated that, in the absence of this information, there would be nothing to establish that the situation was in conformity in this respect. As the report does not provide the information requested, the Committee reiterates its request and holds in the meantime that the situation

is not in conformity with Article 8§2, on the ground that it has not been established that legal remedies are available to employees on fixed-term contracts and civil servants in the case of unlawful dismissal based on pregnancy or maternity.

In its previous conclusion (Conclusions 2017), the Committee deferred its conclusion concerning the compensation provided for in the case of unlawful dismissal during pregnancy or maternity leave and asked for relevant examples of case-law demonstrating that, under the Civil Code and the Code of Obligations, it was actually possible for an employee dismissed unlawfully and on a discriminatory basis during pregnancy to obtain compensation for non-pecuniary damage, without reference to the ceiling provided for under the Labour Code/Act. While the report does include examples of case-law, the Committee notes that they do not demonstrate that it is possible for an employee dismissed unlawfully and on a discriminatory basis during pregnancy to obtain compensation for non-pecuniary damage, without reference to the ceiling provided for under the Labour Code/Act. The Committee therefore finds that the situation is not in conformity with Article 8§2 of the Charter, on the ground that adequate compensation is not provided for in cases of unlawful dismissal during pregnancy or maternity leave.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 8§2 of the Charter on the grounds that

- the reasons of dismissal of an employee during pregnancy or maternity leave go beyond the admissible exceptions;
- it has not been established that adequate protection is provided for in cases of unlawful dismissal during pregnancy or maternity leave in the case of women employed in the public sector on temporary contracts,
- not all employed women are entitled to reinstatement in case of unlawful dismissal during pregnancy or maternity leave;
- it has not been established that legal remedies are available to employees on fixed-term contracts and civil servants in the case of unlawful dismissal based on pregnancy or maternity,
- adequate compensation is not provided for in cases of unlawful dismissal during pregnancy or maternity leave.

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 Turkey.

The Committee noted previously that employees have a right to nursing breaks of one and a half hours per day until their child reaches one year of age; such breaks are regarded as working time and are remunerated as such (Article 74 of the Labour Code).

In its previous conclusion (Conclusions 2015), the Committee asked whether the same rules applied to employees covered by the Press Labour Act.

In response, the report indicates that Article 74 (work during maternity leave and nursing breaks), as amended, applies to all women workers under an employment contract. The Committee notes from the report that the same rules apply to women employees covered by the Press Labour Act.

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

Conclusion

The Committee concludes that the situation in Turkey 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 Turkey.

In its previous conclusion (Conclusions 2015), the Committee found that the situation was in conformity with Article 8§4 of the Charter. The Committee asked whether the employed women concerned, both in the private and in the public sector, were automatically transferred to a daytime post and what rules applied if such a transfer was impossible.

In response, the report indicates that according to Section 8 of the Regulation on Working Conditions of Pregnant and Nursing Women, Nursing Rooms and Child Day Care Facilities of 16 August 2013 (Official Gazette No. 28737), pregnant women may be transferred to a daytime post. However, the Committee asks that the next report provide more details of the rules applicable in these circumstances (whether the employed women concerned are transferred to a daytime post until their child is one year old and what rules apply if such a transfer is not possible).

In its previous conclusions, the Committee also asked whether the same provisions covered all female employees or whether a different regime applied for example, to women covered by the Press Labour Act. In response, the report indicates that the Regulation on Working Conditions of Pregnant and Nursing Women, Nursing Rooms and Child Day Care Facilities applies to workplaces employing female workers who are covered by Law no. 6331 of 20 June 2012 on Occupational Health and Safety. This law covers all employees in all sectors of activity and workplaces, in both the public sector and the private sector. The Committee previously noted (Conclusions 2018, Article 2§7) that, under Article 20 of that law, employers must select a workers' representative who is authorised to participate in studies on occupational health and safety, monitor such work, call for measures to eliminate the danger or reduce risks and represent employees on such matters. Night work forms part of these responsibilities.

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

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

In its previous conclusions (Conclusions 2011 and 2015), the Committee found that the situation was not in conformity with Article 8§5 of the Charter on the ground that pregnant women, women who had recently given birth or who were nursing their infant were only entitled to unpaid leave when such leave was granted because no other protective measures could be taken to protect them from exposure to the risks inherent in their posts. As the situation has not changed, the Committee reiterates its finding of non-conformity.

In its previous conclusion, the Committee asked whether the employees transferred to another post or on leave because it was impossible to reassign them to another suitable post maintained a right to reinstatement when their condition allowed it. The report states that under Law No. 6331, a person can resume work in the post in question after undergoing a medical check-up to ascertain whether or not they are capable of working. The report further states that the legislation does not contain any provisions prohibiting a return to the previously held post.

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.

The Committee also asked whether and how arduous and dangerous activities (in particular as regards risks related to exposure to lead, benzene, ionising radiation, high temperatures, vibration or viral agents, etc.) were prohibited or strictly regulated for pregnant women, women having recently given birth or who are nursing their infant.

In response, the report states that Appendices 1 and 2 to the Regulation on Working Conditions of Pregnant and Nursing Women, Nursing Rooms and Child Day Care Facilities, contain provisions prohibiting the women concerned from carrying out dangerous work. The Committee asks for the next report to provide detailed information on the content of these Rules and their Appendices. 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 Turkey is in conformity with Article 8§5 of the Charter in this respect.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 8§5 of the Charter on the ground that pregnant women, women who have recently given birth or who are nursing their infant are only entitled to unpaid leave when such leave is granted because no other protective measures can be taken to protect them from exposure to risks inherent to their post.

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 Turkey.

Legal protection of families

Rights and obligations, dispute settlement

With regard to the **rights and obligations of spouses**, the Committee previously noted that although equality of women in marriage is recognised since 2001 (Conclusions 2011), married women had to bear their husband's name throughout their marriage and were not entitled to use their maiden name alone. In the light of the violation of the European Convention of Human Rights (ECHR) found on this issue (European Court of Human Rights, Judgment of 16 November 2004, in the case *Ünal Tekeli v. Turkey*, Application No. 29865/96), the Committee asked for information on the measures taken in this respect (Conclusions 2015). The report submitted in 2017 indicates that following case-law changes (decision of the Assembly of Civil Chambers, Second Civil Chamber of the Court of Appeals) it has become possible for the married women to use only their maiden name via judicial remedy. The Committee asks the next report to provide updated information on the measures taken to ensure equality of treatment of spouses within the marriage and the family, also in the light of the concerns raised by the United Nations Committee for the Elimination of Discrimination against Women (CEDAW) in its Concluding Observations adopted in 2016. It reserves in the meantime its position.

In cases of family breakdown, Article 16 of the Charter requires the provision of legal arrangements for the **settlement of disputes**, in particular as regards care, maintenance and custody of children, and access to them. The Committee asks the next report to provide information on these points.

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

As to **mediation services**, the Committee previously noted (Conclusions 2015) the entry into force in 2013 of a Mediation Act on Civil Disputes. It takes note of the additional information provided in the report concerning divorce process consultancy services. According to the information presented in the 9th report, submitted in 2017, divorce process consultancy services are provided free of charge by experts in the 81 Provincial Directorates of Family and Social Policies and Social Services Centers before, during and after divorce.

Domestic violence against women

The Committee takes note of the information in the 9th report submitted in 2017 and the current report concerning the developments occurred since its latest assessments (see notably Conclusions 2011 and 2015), in particular as regards on the one hand, the training measures taken to improve prevention of violence and those related to the protection of victims, in particular in the context of the third National Action Plan on Combating Violence against Women 2016-2020 and the National Action Plan on combating early age and forced marriage (see details in the report). With regard to integrated policies, the Committee notes from the report the setting up in 2016 of a Provincial Coordination, Monitoring and Evaluation Commission on Combating Violence against Women and the project to create a joint database between institutions to effectively monitor violence against women. It notes however that the report does not provide information as regards prosecution of domestic violence and case-law examples, nor does it provide the information requested (Conclusions 2015) on the results achieved in curbing domestic violence. In this respect, the Committee notes from the latest available data (survey on domestic violence of 2014) as analysed by the OECD in comparison to other OECD countries that Turkey had the worst record in Europe as regards prevalence of domestic violence. The Committee also notes from the report that 30% women had been exposed during their life to some form of economic violence (such as being prevented from

working, obliged to stop working, being deprived of personal income or not getting money for the household expenses).

Insofar as Turkey has signed and ratified the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence (which came into force in Turkey on 1 August 2014), the Committee refers to the assessment procedure which took place in the context of this mechanism. It notes that in October 2018, the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its first baseline evaluation report on Turkey. GREVIO experts recognised progress with regard to measures to protect women from violence but pointed out the lack of evidence showing that cases of violence are effectively investigated, prosecuted and sanctioned. The report urged authorities among others to step up measures to identify and remedy gaps in the institutional response to violence against women, in accordance with the duty of due diligence, recognise forced marriage and stalking as separate offences and develop training programmes for law enforcement authorities.

The Committee asks the next report to provide comprehensive and updated information on all aspects of domestic violence against women and related convictions, as well as on the use of protection orders, the implementation of the various measures described in the report and their impact on reducing domestic violence against women (including economic violence), also in the light of the abovementioned GREVIO recommendations. In the meantime, in the light of the information available, the Committee considers that it has not been established that women are ensured adequate protection, in law and in practice, against domestic violence.

Social and economic protection of families

Family counselling services

In its previous Conclusion (Conclusions 2015), the Committee noted that, as of 2013, new private family counseling centres were being set up and that a reform of Social Service Centres was under way and asked for updated information in this respect. Further detailed information on the services provided was presented in the 9th report submitted in 2017, which indicates notably that Social Service Centers operate in 81 provinces. The current report indicates that criteria for working as family counselor have been defined by the Vocational Qualifications Authority in 2014 (Family Counseling National Occupational Standard) and provides some information on the services provided by the Social and Economic Support Service (SESS) to ensure healthy growth of children in family unity and integrity. The report also refers to specific programmes carried out in school (School Support Project) and to a Parent Education Programme addressing parents of children aged from 0 to 18 years old.

Childcare facilities

According to the report, in 2017-2018 there were 31 246 pre-school education establishments, 24 795 of which were public and 6 271 private, and 1 847 private nurseries and day-care nurseries licenced by the Ministry of Family, Labour and Social Services. The report also indicates that childcare services can be provided free of charge to disadvantaged (low-income, single parent, etc.) families for children between 0-6 years of age.

The Committee notes that in 2015 Turkey was the OECD country with the lowest social expenditure on childcare (0.1% of GDP, according to OECD data) and that, according to a World Bank study (Supply and demand for child care services in Turkey) about 2.7 million children in Turkey (i.e. over two thirds of them) were estimated to not be serviced by any form of center-based early childhood education and care services. According to this study, to reach the OECD average of pre-primary school enrollment rate of 80.6%, 42 388 new child care facilities would be needed. In the light of these data, the Committee asks the next report to provide comprehensive and updated information on the legal framework applying to childcare facilities, including as regards staff training and qualifications, quality monitoring of the facilities

and their geographical coverage as well as the number and percentage of children attending childcare facilities. It reserves in the meantime its position on this point.

Family benefits

Level of family benefits

In its previous conclusion (Conclusions 2015) the Committee noted that although the setting up of a general system of family benefits had remained on the agenda, the situation had not changed during the reference period and therefore it was not in conformity with the Charter. The Committee now notes that the report refers to the Integrated Social Assistance Information System which has become a social welfare inventory where information on social and economic status of all households are kept. The report further refers to the Social and Economic Support Service for children. However, the Committee notes that the report does not provide any information on any changes with regard to the general system of family benefits.

The Committee recalls that under Article 16 States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be family or child benefits provided as part of social security, available either universally or subject to a means-test. As regards the situation in Turkey, the Committee reiterates its previous finding of non-conformity on the ground that there is no general system of family benefits.

Measures in favour of vulnerable families

The Committee recalls that States are required to ensure the protection of vulnerable families such as single-parent families and Roma families, in accordance with the principle of equality of treatment. As the report does not provide any information on the measures taken in this respect, the Committee considers that it has not been established that vulnerable families receive appropriate economic protection.

Housing for families

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

Participation of associations representing families

The Committee previously noted the setting up of Family Councils (Conclusions 2017) and requested further information on their membership, the frequency of their meetings as well as the impact of their report on the policies adopted by the competent authorities. In response, the report explains that all relevant stakeholders (civil servants working in the field of family policies and social services for the families, NGOs representatives, academicians, experts and professional staff working in service provision) are invited to take part, and indeed associations and organisations representing families also participate, but there are no permanent members to the Councils, which meet every four years. The Committee takes note of the details provided on the issues addressed at the 7th Family Council in 2019. According to the report, the Family Council is not only a platform for discussing social policies and relevant public policies for families with experts and relevant stakeholders, but it is also expected to contribute to a national policy framework document that will consolidate and coordinate public policies to strengthen the family.

Conclusion

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

- it has not been established that women are ensured adequate protection, in law and in practice, against domestic violence;
- there is no general system of family benefits;
- it has not been established that vulnerable families receive appropriate economic protection.

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 Turkey.

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.

2015, UNHCR estimated the total number of stateless persons in Europe at 592,151 individuals.

The Committee notes from other sources [The Institute on statelessness and Inclusion and the European Network on Statelessness' Joint Submission to the Human Rights Council at the 35th Session of the Universal Periodic Review, July 2019] that Turkey in 2019 (outside the reference period) was hosting approximately 3.6 million Syrians, many of whom are at high risk of becoming stateless. According to the Turkish Parliament's Refugee Subcommittee, there were around 311,000 children of Syrian origin who had been born stateless in Turkey by 2018 (outside the reference period). As Turkey does not currently provide these children unconditional birth-right citizenship, these children face denial of their right to acquire a nationality and risk being made stateless.

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

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

Protection from ill-treatment and abuse

The Committee previously concluded that the situation was non-conformity on the ground that not all forms of corporal punishment of children are prohibited in the home, in schools and in institutions (Conclusions 2015).

There has been no change to this situation therefore the Committee reiterates its previous conclusion.

Rights of children in public care

The Committee previously asked the next report to provide up-to-date information regarding the total number of children in foster care as opposed to institutions (Conclusions 2015).

In its previous conclusion the Committee also asked what were the criteria for the restriction of parental rights, and whether the decisions regarding the placement of children outside their home can be appealed (Conclusions 2015).

No information is provided on children in public care, therefore the Committee reiterates its previous questions, in particular its question regarding the number of children in public care, the number in institutions, the number on foster care as well as the trends in the field. It considers that if this information is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

Right to education

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

Children in conflict with the law

The age of criminal responsibility is 12 years in Turkey. The Committee asks whether any consideration has been given to raising this age. The Committee recalls that the age of criminal responsibility should not be too low and in any event it should not be lower than 14 years. The Committee concludes that the age of criminal responsibility is too low and considers therefore that the situation is not in conformity in this respect.

The Committee previously noted that a prison sentence of up to 20 years could be imposed on a child and asked the state to take all possible measures to reduce the maximum length of prison sentence for young offenders (Conclusions 2017). The Committee recalls that periods of detention should only exceptionally be imposed on children and only as a measure of last resort and for the shortest period of time further they must be regularly reviewed. The Committee asks whether prison sentences imposed upon children are regularly reviewed.

The Committee previously concluded that the situation in Turkey was not in conformity with Article 17§1 of the Charter on the ground that it had not been established that the maximum length of pre-trial detention of children was not excessive (Conclusions 2017).

According to the report Article 102 of the Turkish Code of Criminal Procedure the maximum periods of pre-trial detention, depends on the gravity of the offence and the jurisdiction of the court dealing with the case. However the maximum period of pre-trial detention is two years. This period may be extended for up to a year.

Further the total period of pre-trial detention be up to five years for those accused of offenses covered by the Anti-Terror Law No. 3713 dated 12/04/1991.

The Committee considers that these periods of pre trial detention which may be imposed on a child are excessive and cannot be considered in conformity with the Charter.

As regards separation of children from adults, the Committee recalls that Articles 11, 15 and 111(3) of the Act No.5275 on the Execution of Sentences and Security Measures require that children should be separated from adults. Detained children are kept in closed penitentiary institutions for children or where there is no such institution, in separate units of the closed penitentiary institutions for adults.

However the report also states that where separate sections do not exist, girls shall be accommodated in a section of closed penal institutions for women. The Committee seeks confirmation that in such cases girls are separated from women.

The Committee 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 or their parents' immigration status is contrary to the best interests of the child. Likewise unaccompanied minors should not be deprived of their liberty, and detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status or lack thereof.

It requests information as to whether children who are irregularly present in the State accompanied by their parents or not, may be detained and if so under what circumstances. The Committee also requests further information on measures taken to ensure that accommodation facilities for migrant children in an irregular situation, whether accompanied or unaccompanied, are appropriate and are adequately monitored.

The Committee asks whether children in an irregular situation have access to healthcare.

The Committee asks again what assistance is given to children in an irregular situation or migrant children to protect them against negligence, violence and abuse, in particular Syrian children with protected status. The Committee considers that if this information is not provided in the next report there will be nothing to establish that the situation is in conformity with the Charter.

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 Turkey uses bone testing to assess age and, if so, in what situations the state does so. Should the state use such testing, the Committee asks what are the potential consequences of such testing [(e.g., can the results of such a test serve as the sole basis for children being excluded from the child protection system?)

Child poverty

States should also make clear the extent to which child participation is ensured in work directed towards combatting 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 from EUROSTAT data that in 2017 48.7% of children in Turkey were at risk of poverty or social exclusion, a very high rate.

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

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

Meanwhile it reserves its position on the conformity of the situation.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 17§1 of the Charter on the ground that:

- not all forms of corporal punishment are prohibited in all settings;
- the maximum length of pre-trial detention is excessive;
- the age of criminal responsibility is too low.

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 Turkey.

ENROLMENT RATES, ABSENTEEISM and DROP OUT RATES

According to the report the net school enrolment rate at primary level in 2016/2017 was 96.51%, the corresponding figure for secondary level was 83,58%.

The Committee notes from the UNESCO i that the net rate for primary education was 94.05% in 2016 and 87.9% in 2017, for secondary education the rates were 85.97% in 2016 and 88.95% in 2017. The Committee considers these rates to be quite low and notes that the primary enrolment rate seems to be decreasing. It asks for the Governments comments on this.

The report states that, under the Access to Education Strategy 2015-201,9 visits to provinces with high rates of absenteeism have been carried out to monitor the scale of the problem and propose measures to address the problem.

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 with regard to these rates.

Costs associated with education

The Committee previously noted the financial support measures, such as assistance with transport, books and food, available to certain families to assist with the cost of education (Conclusions 2015). The Committee asks the next report to provide updated information on the financial and material supports available to families to assist with the cost of schooling and to encourage attendance. In addition the Committee asks what measures have been taken to ensure that parents are not obliged to participate in the costs of public education through the solicitation of contributions from them.

Vulnerable groups

According to the report pre school education for disadvantaged groups has been extended.

In its previous conclusion the Committee found that the situation was not in conformity with the Charter as children irregularly present in Turkey did not have effective access to education. Access to education was reserved to those holding valid residence permits.

According to the report, the situation has now changed. The Ministry of National Education's Circular No. 2014/21 dated 23 September 2014, "Educational Services for Foreigners" and Ministerial Consent dated 16 November 2017 provide that children without a valid residence permit or identification number may access education. The new regulations cover in particular Syrian nationals with temporary protection status (TPS).

The report states that free stationary materials are available to children considered disadvantaged as well as to Syrian children.

The Committee understands that temporary education centres have been established in certain areas to provide education to children with temporary protection status. Where such centres do not exist, undocumented children will be registered into a foreign students identification system to allow them to obtain a temporary identification number and access education.

The Committee notes this positive development but seeks confirmation that the regulations cover all children irregularly in the country not just those with temporary protection status.

The Committee notes from the report of Council of Europe Special Representative of the Secretary General on migration and refugees following his visit in 2016 [SG/Inf(2016)29] that

providing education to the high number of refugee and migrant children in Turkey is a significant challenge. Of the 2.75 million Syrians registered under temporary protection, more than half are children. It is also reported that Turkey plays host to over 800,000 school-age Syrian children. Approximately 330,000 Syrians are enrolled in schools in Turkey. The rate of participation in education among children living in camps is 85%. This rate decreases sharply for those who live outside camps. The low level of enrolment in school for those outside the camps is a matter of particular concern.

According to other sources the Ministry for Education has stated that over 600,000 Syrian children living in Turkey are not in school.

The Committee asks to receive updated information on the situation as well as on measures taken to increase the enrolment rate of Syrian children in school particularly for children living outside camps. Meanwhile it reserves its position on this point.

The report provides details of programs in primary schools aimed in particular at migrant children and children of seasonal agricultural workers. The programmes seek to ensure that they achieve the basic skills required of children their age and do not fall behind.

The Committee asks what measures have been taken to promote equal access to education for other groups such as Roma children and children in rural areas. The Committee asks what measures have been taken to ensure the right to education for children in street situations.

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

Anti-bullying 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 Turkey.

Migration trends

The Committee has assessed the migration trends in Turkey in its previous conclusion (Conclusions 2011). The report does not address this point and the Committee asks that the next report provide up-to-date information on the developments in this respect.

Change in policy and the legal framework

The report provides that the 2013 Law on Foreigners and International Protection regulates principles and procedures with regard to foreigners' entry, stay in and departure from Turkey, as well as the scope and implementation of the protection to be provided for foreigners and the establishment, duties, mandate and responsibilities of the Directorate General of Migration Management (DGMM) under the Ministry of Interior. Furthermore, the 2016 Law on the International Labour Force identifies and implements policies on international labour force and regulates rules and procedures on work permits granted to foreigners, as well as the authorities and responsibilities, and the rights and obligations in the field of international labour law. The Directorate General of International Labour Force has been established as the main governmental service in foreign employment policies. The report further provides information on implementation of the legal framework, in particular as regards the services responsible for the implementation and on projects and relevant awareness-raising measures.

Free services and information for migrant workers

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

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

In its previous conclusion (Conclusions 2017), the Committee found that the situation was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that migrant workers were provided with adequate free assistance services and information. It took note in particular of the fact that information relevant to migrants (on work permits etc.) was provided via a telephone helpline (YİMER ALO 170), emergency helpline (YİMER ALO 157) and via websites of the Ministry of Labour and Social Security and of Directorate of Migration Management. However, the Committee considered that such services were inadequate, insofar as the information provided on the websites was only available in Turkish and the YİMER ALO 170 answered to only 53% of requests. It asked how migrants are made aware of the existence of the helpline.

The report refers again to the emergency contact line for assistance to victims of trafficking (YİMER ALO 157) which was established in 2005. It states that when taken over within the Directorate General of Migration Management (DGMM) in 2015, the helpline's call center workers also respond questions about issues such as visa or international and temporary protection. The hotline serves in 6 languages. The service operates also through social media

and a web-chat. The DGMM informs about its communication strategy on its website and social media accounts. The report states that 80% of calls are answered.

Another service to provide information and assistance to foreigners is the Migration Advisory Centers, established to provide information on face to face for migrants, also in foreign languages. The report states that they have provided services to 153.950 people in the subjects such as rights and obligations of persons, application and registration procedures. Furthermore, the DGMM created a Mobile Application, providing information on the rights and obligations of foreigners, social and economic life in Turkey, cultural events, in 6 different languages.

The Committee notes that the situation as regards the provision of information to migrant workers has not significantly changed: it is a welcomed fact that the DGMM website operates now, as the Committee observes, in English, German and Arabic and contains information about visa procedure and international or temporary protection. The Committee notes, however, that the sources provided in the report do not seem to cover issues such as and the living and working conditions. The YIMER ALO 157 is an emergency helpline and even if broadened to appear to cover formalities to be completed in relation to international protection or visa procedure, there are still many areas of valuable information for migrant workers who do not require international protection, which do not appear to be covered by any service. The number of persons served by the Migration Advisory Centers appears to be very low and also limited in scope. No exhaustive explanations were submitted on the functioning of YIMER 170, which had a broader spectrum of provided information. The report solely states that the notifications it received on work permits could be answered in 95%. No reply is given to the Committee's question about its overall half of not answered calls.

In the light of information at its disposal, the Committee considers that it has not been established that migrant workers are provided with adequate free assistance services and information, in particular that it covers issues such as concerning regular living and working conditions and related formalities.

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.

In 2011, the Committee concluded that has not been established that measures against racist and xenophobic propaganda relating to emigration and immigration have been taken. The Committee further recalls that in 2015 the report provided only partial information on the measures taken against misleading propaganda relating to emigration and immigration, as an implementation of Article 19§1 of the Charter (see Conclusions 2015) and the Committee asked for complete and up-to-date information. In 2017, the Committee recalled that the situation concerning this aspect (including measures taken to combat human trafficking and protect victims, as detailed in the report), would be examined in the framework of the regular reporting cycle in 2019 (see Conclusions 2017). The report does not address any of the issues covered by this part of Article 19§1 of the Charter. Accordingly, the Committee considers that it has not been demonstrated that the situation is in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§1 of the Charter on the ground that it has not been established that:

- migrant workers are provided with adequate free assistance services and information;
- measures against misleading propaganda relating to emigration and immigration have been taken.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 2 - Departure, journey and reception

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

Immediate assistance offered to migrant workers

This provision obliges States to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception (Conclusions III (1973), Cyprus).

Reception means the period of weeks which follows immediately from the migrant workers' arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty (Conclusions IV, (1975) Statement of Interpretation on Article 19§2). It must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures (Conclusions IV (1975), Germany). The Charter requires States to provide explicitly for assistance in matters of basic need, or demonstrate that the authorities are adequately prepared to afford it to migrants when necessary (Conclusions XX-4 (2015), Poland).

The Committee also reiterates that equality in law does not always and necessarily ensure equality in practice. Additional action becomes necessary owing to the different situation of migrant workers as compared with nationals (Conclusions V (1977), Statement of Interpretation on Article 19).

The Committee deferred its previous conclusion ([Conclusions 2015](#)), awaiting a full and up to date description of the assistance available to migrant workers upon arrival and during reception, with particular regard to assistance in overcoming problems and in need of food or shelter.

The report states that applicants or international protection beneficiaries benefit from universal medical insurance covered by the State. They are also accommodated in temporary shelter centres and receive financial assistance.

The Committee asks whether appropriate assistance is offered in practice to all migrant workers who are faced with an emergency or particular difficulty, not only to the persons under international protection.

It further insists that the report provides a full and up to date description of the assistance available to migrant workers upon arrival and during reception, since its most recent examination of these issues dates back to 2000 (see [Conclusions XV-1](#)). The Committee exceptionally defers its conclusion once more but underlines that should the next report not provide comprehensive information on these issues, there will be nothing to establish that the situation is in conformity with the Charter.

Services during the journey

As regards the journey, the Committee recalls that the obligation to "provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey" relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment. The Committee considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the state is not responsible. In such cases, the need for reception facilities would be all the greater (Conclusions V (1975), Statement of Interpretation on Article 19§2).

The Committee notes that no large scale recruitment of migrant workers has been reported in the reference period. It asks what requirements for ensuring medical insurance, safety and social conditions are imposed on employers, shall such recruitment occur, and whether there is any mechanism for monitoring and dealing with complaints, if needed.

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 3 - Co-operation between social services of emigration and immigration states

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

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

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

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

The Committee notes that the legal framework introduced with the Decree of 11/10/2011, which it had assessed in detail in its previous conclusion ([Conclusions 2015](#)) and found to be in conformity with the Charter, has not changed. In the reference period, measures related to the legislative provisions of 2011 have been implemented. The report provides comprehensive information on how related ministerial departments and their tasks have been restructured to provide services to the citizens in the fields of, *inter alia*, family reunion, integration policies, social services, employment etc. Furthermore, several bilateral and multilateral agreements have been signed between the Ministry of Family, Labour and Social services and foreign ministries responsible for employment and social security issues.

Conclusion

The Committee concludes that the situation in Turkey is in conformity with Article 19§3 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 Turkey.

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 has previously concluded that restrictions for migrant workers on access to professions not related to public security were not in conformity with the Charter ([Conclusions 2015](#)). While noting that as from October 2011 foreign nationals could apply to exercise as doctors in private hospitals, the Committee asked for information as regards the professions which remained not accessible to foreign workers.

In reply, the report provides that foreigners are prohibited from exercising following occupations:

- dentistry and nursing
- pharmaceuticals
- veterinary medicine
- management of private hospitals
- advocacy, notary
- security officer in private or public institutions
- exporting fish, oysters, mussels, sponges, pearls, corals, mother-of-pearl, sand and pebbles, removing of cast away sea-going vessels and wrecks, diving, searching, pilotage, etc. in inland waters
- tourist guidance

The Committee observes that migrant workers are still not entitled equal access to certain employments in fields, such as dentistry, veterinary, pharmaceuticals, tourism or fishery, in which such a restriction cannot be objectively justified by reference to the sovereign prerogatives of the state. Accordingly, it upholds its conclusion of non-conformity with the Charter in this respect.

In reply to the Committee's question whether migrant workers had the same rights to professional or vocational training as Turkish citizens, the report submits that foreigners registered as "job-seakers" benefit from training courses and on-the-job-training programmes. The Committee specifies that migrant workers should not be discriminated in the access to training as a part of their employment conditions and that they should have in-service training, promotion, as well as vocational training

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 report confirms that any person who is considered a worker and older than 15-years old may join a trade union. The Committee notes from its previous conclusion (Conclusions 2015) report states that the Law No. 6356 on Trade Unions and Collective Agreements of 18 October 2012 grants migrant workers equal rights to be founding members of trade unions.

The Committee considers that the situation is in conformity with the Charter on this point.

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 its previous conclusion, the Committee noted that not all foreigners were entitled to buy property and estate and that certain limits applied to the size and location of property which foreigners could buy in Turkey. It asked for clarifications what restrictions in this regard applied to migrant workers. It also asked for confirmation, in light of any relevant statistical data, that migrant workers could apply for access to public housing and other housing benefits without discrimination.

The report provides that in the reference period, the application of the reciprocity requirement in the acquisition of real property of foreigners has been abandoned and that the total area of immovable property which they could purchase was enlarged. The Committee notes that the information provided still does not explain what restrictions apply to migrant workers. The report does not reply, moreover, to the question about the access to public housing and other housing benefits. The Committee thus recalls its questions and underlines that should the next report not provide comprehensive information in this respect, there will be nothing to show that the situation is in conformity with the Charter on this point.

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 noted in its previous conclusions (Conclusions 2015) that the Labour Inspectorate appeared to be the relevant body charged with ensuring the working conditions and labour rights of all employees, including migrant workers. The report does not provide any information on the competences and functioning of this body. At the same time, the Committee notes from the Migration Integration Policy Index (MIPEX 2015) that Turkey is a country without a dedicated anti-discrimination law with clear definitions, fields of application and enforcement mechanisms.

The Committee asks the next report to provide comprehensive clarifications on all aspects of monitoring and of the judicial review available in cases of alleged discrimination, so that it can assess the situation in full. Meanwhile, it reserves its position on this point.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§4 of the Charter on the ground that migrant workers have no equal access in employment to professions not related to public security.

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 Turkey.

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](#)).

In reply to the Committee's question, the report confirms that all contributions payable in relation to employment apply equally to migrant workers and nationals. The employer pays fees for the foreign worker's work permit.

The report provides also comprehensive information on the implementation of the legal framework, in particular as regards the unemployment insurance for migrant workers.

Conclusion

The Committee concludes that the situation in Turkey 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 Turkey.

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).

In its previous conclusion ([Conclusions 2015](#)), the Committee considered that the scope of the right to family reunion was not in conformity with the Charter, since family members whose permits were dependent upon the stay of the migrant worker, and who had been in Turkey for less than 3 years, had no independent right of residence and would lose all right to remain in Turkey if the sponsoring migrant worker is expelled. The report confirms that the situation has not changed.

The Committee recalls that an independent right to stay must be granted to family members, save for legitimate intervention in cases of marriage of convenience and fraudulent abuse of immigration rules. While it is acceptable for states to impose a minimum period of residence before such an independent right of residence is granted (Conclusions 2011, Netherlands Article 19§8), the imposition of a three year time limit in this regard is disproportionate, and cannot be justified under Article G of the Charter. The Committee thus reiterates its negative conclusion in this respect.

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 observed in its previous conclusion (Conclusions 2015) that several conditions applied before a family reunion could be granted and asked for clarification in this respect, as follows:

A) As regards public health reasons: the report provides that a ban on entry is imposed on a foreigner who suffers from disease which is considered as a threat to public health, is defined as infectious or infectious parasitic with the epidemic potential in the Health Regulation of the World Health Organization, as well as mentioned in the General Hygiene Law of 1930. 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. 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. Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish, on a case-

by-case basis, that the illness or condition constitutes a threat to public order or security. The Committee asks whether the Hygiene Law of 1930 broadens the scope of diseases considered a public threat, as defined by the WHO. It also repeats its request for information on how this requirement is applied in practice and who certifies the existence and seriousness of the illness and whether a review procedure is available. Meanwhile, it reserves its position on this point.

B) As regards accommodation requirements: in reply to the Committee's on how this requirement is applied in practice, the report submits that the sponsor must provide the address information being a rental contract, hotel address, certification from a dormitory or notary commitment in case of staying with another person. The Committee considers that the requirement for sufficient or suitable accommodation to house family members is not applied so restrictive as to prevent any family reunion. It thus considers that the situation is in conformity with the Charter in this respect.

C) As regards means requirement: the Committee noted in its previous conclusion that the sponsor applying for a family reunion is required to have a monthly income not less than the minimum wage in total, and corresponding to not less than one third of the minimum wage per dependent family member. It asked whether the calculation of a sponsor's means takes account of any income based on entitlement to social benefits. The report states that the income obtained from social benefits is not taken into account in determining the income status of the foreigner. In addition, there is the requirement of not having taken social benefit in the last three years in terms of long term residence permit conditions. The Committee recalls that social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion (Conclusions 2011, Statement of Interpretation on Article 19§6). The situation is, accordingly, not in conformity with the Charter in this respect.

D) As regards the judicial review: in reply to the Committee's request for more detail information concerning the procedure for appealing, the report specifies that the authorities are obliged to notify the applicant of the reason for refusal of their request for family reunion when serving the applicant with the decision. Information about the availability of appeal is included in the notification form. The Committee asks whether statistics on number of refusals for family reunion and appeals are collected.

Conclusion

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

- the requirement that family members of a migrant worker reside for Turkey for three years before acquiring an independent right of residence is excessive;
- social benefits are excluded from the calculation of the income of a migrant worker who has applied for 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 Turkey.

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).

In its previous conclusion ([Conclusions 2017](#)) the Committee concluded that the situation was not in conformity with the Charter on the ground that, in respect of the civil procedure, free legal aid was only provided to foreigners subject to the principle of reciprocity. In reply, the report submits that although the Code of Civil Procedure states that foreigners can benefit from legal aid on the condition of reciprocity, foreigners are considered to be disadvantaged and thus benefit from legal aid regardless of the reciprocity principle. Courts accept the legal aid requests of foreigners, indicating that everyone whose rights and freedoms as set forth in the European Convention on Human Rights are violated shall have an effective remedy before a national authority according to Article 13 and without discrimination on any ground according to Article 14 of the Convention.

The report confirms that as to the scope of legal aid in both criminal and civil proceedings there is no distinction between foreigners and citizens. Interpretation service is provided free of charge at every stage of a trial. Accused, a victim and a witness, who cannot express himself can benefit from the interpreter, irrespectively of the nationality. The expenses of the interpreter assigned to the parties who do not know Turkish are borne by the State Treasury.

Pursuant to Article 31 of the Administrative Procedure Code, the provisions of the Code of Civil Procedure applicable in terms of legal aid, apply equally to the administrative proceedings.

Conclusion

The Committee concludes that the situation in Turkey 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 Turkey.

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 2017](#)) the Committee concluded that it had not been established that lawfully resident migrant workers were entitled to adequate guarantees in case of expulsion.

The report states that the Law on Foreigners and International Protection was amended in 2017, making it more restrictive for persons associated with terrorist organisations. In reply to the Committee's question whether when deciding on deportation, the authorities take 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, the report explains that following judicial proceedings, foreigners are brought to Provincial Directorates of Migration Management (PDMM) who evaluate whether they will be deported. It follows from the report that a conviction or a prosecution for any crime may lead to an expulsion. After the termination of the detention of foreigners and after the completion of the judicial proceedings of the foreigners for whom the judicial authorities take the decision that there is no need for prosecution, evaluation is made by the PDMM on whether or not they will be deported. The assessment is made according to the criteria such as whether there is a national and / or international search warrant for the foreigner, data contained in the official documents held by law enforcement officers or whether the person is a perpetual offender.

The Committee considers that the relevant provisions in this respect are extremely wide, in particular that an individual need not be actually convicted of a crime but simply being prosecuted in order to be considered a threat to public order or national security and deported. Also, the personal circumstances of the individual, such as length of residence, family ties etc, are not obligatorily taken into account when deciding on deportation, as Article 19§8 requires. This may lead to migrant workers being arbitrarily expelled and therefore cannot be considered as being in conformity with this provision of the Charter.

As regards expulsion on grounds of public health, the report states that persons considered to pose a threat for public health, for example when suffering from infectious diseases confirmed by hospital reports, are subject to a "removal decision". The Committee considers that risks to public health do not in themselves offend public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment. The situation is, accordingly, not in conformity with the Charter in this respect.

In its previous conclusion ([Conclusions 2017](#)) the Committee furthermore considered that the situation in Turkey was not in conformity with Article 19§8 of the Charter on the ground that "foreign gypsies and nomads" could be deported by decision of the Ministry of Internal Affairs on ground that they were not connected to Turkish culture. The report confirms that in 2013 this ground for expulsion no longer applies. Pursuant to the Law No. 6458, stateless persons shall not be deported "unless they pose a serious threat to public order or public security". The Committee recalls that it has already asked for relevant explanation on this provision and its application in practice. As no further information was provided, the Committee recalls its question and underlines that should the next report not provide comprehensive information in this respect, there will be nothing to show that the situation is in conformity with the Charter on this point.

The report also fails to address the Committee's request for exhaustive information on application of the relevant provisions in practice (examples of case law, statistical data etc.). The Committee firmly reiterates this request.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§8 of the Charter on the ground that:

- a migrant worker may be considered as a threat to public order and therefore expelled on the basis of a prosecution or conviction for any crime;
- risk to public health in itself constitutes a ground for expulsion.

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 Turkey.

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

In the previous conclusion (Conclusions 2015) the Committee referred to its Statement of Interpretation on Article 19§9 ([Conclusions 2011](#)), affirming that the right to transfer earnings and savings includes the right to transfer movable property of migrant workers. It asked whether there were any restrictions in this respect. As the report does not address this issue, the Committee recalls its question and underlines that should the next report not provide comprehensive information in this respect, there will be nothing to show that the situation is in conformity with the Charter on this point.

Conclusion

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

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 10 - Equal treatment for the self-employed

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

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 not to be in conformity with Articles 19§1, 19§4, 19§6 and 19§8. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in Turkey is not in conformity with Article 19§10 of the Charter.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§1, 19§4, 19§6 and 19§8 apply 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 Turkey.

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).

In its previous conclusion ([Conclusions 2017](#)), the Committee considered that it had not been established that sufficient steps were taken to promote the teaching of Turkish language to migrant workers and their families, other than those falling under international protection. In particular, it did not find in the report any concrete evidence that language courses are effectively organised for foreign workers from States parties to the Charter in order to facilitate their integration.

In reply, the report states that education services for all foreign students, not only those under international protection, are carried out by the Ministry of Education and Provincial Commissions. Teaching of Turkish language is provided for children in formal and non-formal education institutions and for adult migrant workers and their families in Adult Education Centers. There are also private courses in Turkish available.

Furthermore, in 2016, in order to facilitate the integration of foreigners, a Cooperation Document was signed between the General Directorate of Lifelong Learning of the Ministry of Education and Directorate General of Migration Management of the Ministry of Interior. It is aimed at providing Turkish language courses, integration courses and vocational and social skills training courses for foreigners.

The report also provides data concerning the number of children and adults benefitting from teaching of Turkish language.

The Committee acknowledges that the opportunities for learning national language exist in Turkey for migrant workers and their families. Yet, it considers that the information in its possession is not sufficient for a full assessment whether all requirements laid down by Article 19§11 have been met. In particular, as regards the form and organisation of language courses, the most information concerns special courses provided for asylum seekers, persons under international protection and, in particular, Syrian migrants but it does not provide the required information on other categories of foreigners.

In the light of the above, the Committee asks the next report to reply in detail to following questions:

- what special or extracurricular classes, or other forms of assistance, are provided to the children of migrant workers to enable them to learn the language and participate fully in their education. (included in the curricula, or provided outside of regular schooling)?

- what are the arrangements of courses available to adult migrants to assist their learning, in particular in the implementation of the 2016 Cooperation Agreement, and what the costs are associated with such classes? Whether teaching opportunities apply to all migrant workers?
- whether financial assistance is available for those who cannot afford to pay; which groups of migrants must pay for the obligatory classes and who are entitled to free education?
- what policies are in place to provide or support the education of all adult migrants and migrant workers' children, not only those under international protection, in the national language?
- what measures are taken to promote the teaching of the national language?

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 12 - Teaching mother tongue of migrant

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

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).

In its previous conclusion ([Conclusions 2017](#)), the Committee considered that, in the light of the information available and the questions outstanding, it had not been established that Turkey effectively promoted and facilitated teaching of the migrants' mother tongue to their children, other than those under international protection.

In reply, the report provides that it is possible for foreign nationals to open international private education institutions for the education of children of foreign nationals in Turkey for diplomatic, sportive, cultural or other reasons. Only foreign students are allowed to attend these schools.

The report states that migrants who want their children to learn their mother tongue can benefit from formal and non-formal education institutions and Temporary Education Centres. It repeats the information submitted before on teaching provided in Arabic in Temporary Education Centres on the basis of the Regulation on the Training of Children of Migrant Workers and the Law on Foreigners and International Protection No. 6458. In reply to the Committee's request to explain how in practice the relevant legislation is implemented in respect of migrant workers and their families, the report states that implementation of the relevant provisions took place through the Circular No. 2014/21 of the Ministry of National Education, without providing further details. The Committee considers that this information is still not shedding any light on how foreign children receive education in their language and how this is organised in practice.

Finally, the report provides that the Ministry of National Education has introduced language classes in several foreign languages as optional courses in public schools.

The Committee notes from the recent reports of the European Commission against Racism and Intolerance that the 6th Democratisation Package has brought some progress for linguistic minority groups and private schools are now allowed to teach languages and dialects used by minority groups in their daily life. Still, however, the Committee considers that it does not possess sufficient information to assess whether the requirements of Article 19§12 are met.

In the light of the above, the Committee requests that the next report provides comprehensive reply to following questions:

- how many students receive education in their mother tongue through schools or cultural/voluntary organizations?
- what the level of fees in the private foreign schools is and whether assistance is available to those without the means to pay?
- what steps the government has taken to facilitate the access of migrants' children to these schools?
- availability of mother tongue language classes for migrant worker's children outside the school system?
- whether any non-governmental organisations provide teaching of migrants' languages, and whether they receive support?

Conclusion

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

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 Turkey.

Employment, vocational guidance and training

The report states that 25 Priority Transformation Programmes have been drawn up under the 2014-2018 Development Plan. Under the co-ordination of the Ministry of Family, Labour and Social Services, one of the programmes relates to labour market activation with the aim to increase the participation of women in the labour force which includes expanding care services for children and the elderly.

The Committee also takes note of the implementation of the National Employment Strategy (2014-2023) which seeks to solve the structural problems in the labour market and find lasting solutions to the problem of unemployment by ensuring that the benefits of economic growth are directed towards employment to a greater extent. Specific action plans are also centred on increasing the participation of women, amongst others, in the labour market.

The Committee asks for updated information on any placement, advice, or training programmes for workers with family responsibilities. In particular, it asks whether the above mentioned priority transformation programmes include special measures for workers with family responsibilities. In the meantime, it reserves its position on this point.

The Committee refers to its conclusion under Article 10§3 of the Charter (Conclusions 2012) where it reserved its position pending receipt of the information concerning the proposed types of continuing vocational training and education available on the labour market, the overall participation rate of persons in training, the percentage of employees participating in vocational training, and the total expenditure.

Conditions of employment, social security

The Committee deferred its previous conclusion (Conclusions 2017) and asked whether mothers on unpaid parental leave, both public and private sector employees, and fathers on unpaid parental leave in the public sector, continue to enjoy the right to all branches of social security, including health. It noted that the legislation on pensions contained no specific provisions indicating that periods of absence to fulfil family responsibilities affected the pension entitlement conditions and the monthly amount of the pension.

In response, the report states that mothers and fathers working in the public sector are entitled to health care benefits for one year during the period of unpaid leave. Women working in the private sector are entitled to health care benefits for six months out of the 12 months of unpaid leave granted at her request; there are no similar arrangements for fathers working in the private sector.

The report indicates that parents have the option of using part-time paid leave of two months for their first child, four months for their second child and six months for subsequent children. One month is added in the case of multiple births. If the child has a disability, the period of paid leave is 12 months. The daily allowance for part-time work during leave is equal to the gross amount of the minimum daily wage.

Workers with family responsibilities (public and private sectors) may work part-time until the child reaches compulsory school age.

The Committee asks if there are any other work conditions available to employees that may facilitate the reconciliation of working and private life, for example telework.

Child day care services and other childcare arrangements

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

The report states that the project entitled “My mother’s work is my future” was launched in order to establish nurseries in organised industrial zones. As part of this project, nurseries will be set up in ten of these zones by the end of 2019.

Conclusion

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

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 Turkey.

In its previous conclusion (Conclusions 2015), the Committee found that the situation in Turkey was not in conformity with Article 27§2 of the Charter on the grounds that fathers, other than civil servants, were not entitled to parental leave, and no compensation or remuneration was paid for parental leave.

In this respect, the report describes the family-related forms of leave that can be used for family or parental problems.

The report states that under the Labour Code, as amended by Law No. 6645 of 2015, a three-day paid leave period is granted to workers in the event of marriage, adoption of a child or the death of their father, mother, spouse, brother, sister or child. Moreover, five days of paid leave are granted to workers in the event of childbirth. Working parents who have disabled children whose level of incapacity is at least 70%, or children suffering from a chronic illness, are entitled to up to ten days' paid leave (renewable).

Law No. 6663 of 29 January 2016 amending the law on income tax introduced a right to part-time work for civil servants and parents with minor children. This right must be exercised before the child's first month in primary school. In order to benefit from it, however, the spouse must be in employment. Mothers and fathers of adopted children under the age of three also enjoy this right.

The report states that, under Article 22 of Law No. 6633 of 29 January 2016, a woman employee with a child under the age of three has the right to work part time (on request) when her maternity leave is over. The period for which this entitlement applies is 60 days for the first child, 120 for the second and 180 for all subsequent children (plus 30 days in the event of a multiple birth). If the child is disabled, this period is increased to 360 days. The father and the mother of adopted children under the age of three also enjoy this right. The report explains that a woman employee may take six months of unpaid leave, and this also applies to the parents of adopted children under the age of three. The Committee notes that the same possibility is provided for in Regulation No. 29882 of 8 November 2015. However, according to the report, this applies not only to working mothers but also to working fathers. The Committee asks for clarification on this point in the next report.

The Committee notes that despite the changes in the legislation during the reference period, there has been no change in the overall situation with regard to parental leave. In this respect, the Committee reiterates that under Article 27§2, States will provide for the possibility for each parent to be given parental leave. Consultations between social partners throughout Europe show that parental leave arrangements for taking care of a child are an important factor in reconciling professional life with private life and family life. Whilst recognising that the duration and conditions of parental leave should be determined by States Parties, the Committee considers it important that national regulations should entitle men and women to an *individual right* to parental leave following the birth or the adoption of a child. In order to promote equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent. The Committee reiterates its findings of non-conformity.

Conclusion

- with the exception of civil servants, fathers are not entitled to parental leave;
- no compensation or remuneration is paid for parental leave.

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 Turkey.

Protection against dismissal

In its previous conclusion (Conclusions 2015), the Committee concluded that the situation was not in conformity with Article 27§3 on the ground that workers in companies with less than 30 employees were not protected against dismissal based on family responsibilities. Since the report does not provide any information on the subject, the Committee reiterates its findings of non-conformity in this respect.

The Committee notes from the report that, under Act No. 6663 which entered into force on 10 February 2016, workers with family responsibilities (in the public and private sectors) may work part-time until their child reaches compulsory school age. The report states that requests to work part-time may not be regarded as valid grounds for the termination of employment contracts.

Effective remedies

In its previous conclusion (Conclusions 2017), the Committee noted that, pursuant to Article 17, the employer abusing the right to termination should pay compensation in the amount of three times the salary corresponding to the period of notice. Pursuant to Article 21 of the Law, if the court or the arbitrator concludes that the termination is unjustified because no valid reason has been given or the alleged reason is invalid, the employer must reinstate the employee in his/her post within one month. If, upon the employee's request, the employer does not reinstate him/her in their posts, the compensation that shall be paid to him/her by the employer will be between four months' and eight months' wages. It also noted that, according to the report, termination on the basis of discrimination cannot be a valid ground for dismissal. In this respect, the provisions in the Civil Code and Code of Obligations applicable where a worker's dignity is undermined should also be taken into account in employment relations. In this regard, the calculations of ceilings stipulated in Articles 17 and 21 of the Labour Law are not valid for pecuniary and non-pecuniary damages. The employees who are victims of discrimination can demand compensation according to the general provisions. The compensation for discrimination is not compensation in technical terms, but rather a legal sanction of the employer for the violation of equal treatment. In order to demand compensation for the damage suffered, all it takes is for the employee to be exposed to truly discriminatory behaviour. Moreover, the wrong may not even have occurred. In this context, the employee may claim damages for non-material harm on account of the undermining of his/her dignity within the framework of general provisions of the Code of Obligations. Consequently, the Committee deferred its previous conclusion (Conclusions 2017) on this point. It asked for relevant examples of case law demonstrating that, under the Civil Code and the Code of Obligations, an employee dismissed unlawfully and on a discriminatory basis because of family responsibilities could actually obtain compensation for non-pecuniary damage, without reference to the ceilings provided for under the Labour Code.

In reply, the report recalls that employees are entitled to claim compensation for non-pecuniary damage based on family responsibilities without reference to the ceilings provided for under the Labour Code. However, there are no Supreme Court decisions concerning any cases opened on the basis of the general legislative provisions which could demonstrate this.

The Committee points out that compensation for unfair dismissal must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that could result in precluding damages from being commensurate with the loss suffered by the victim and sufficiently dissuasive for the employer are proscribed. If there is

such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must make their rulings within a reasonable time (Statement of Interpretation on Articles 8§2 and 27§3 (Conclusions 2011)).

The Committee also refers to its conclusion regarding Article 8§2 of the Charter and finds that the situation is not in conformity in this respect, on the ground that it has not been established that adequate compensation is provided for in cases of unlawful dismissal based on family responsibilities.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 27§3 of the Charter on the grounds that

- workers in companies with less than 30 employees are not protected against dismissal based on family responsibilities,
- it has not been established that adequate compensation is provided for in cases of unlawful dismissal based on family responsibilities.

Article 31 - Right to housing
Paragraph 1 - Adequate housing

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

Criteria for adequate housing

The Committee refers to its previous conclusions (Conclusions 2011, 2017) as regards the relevant provisions concerning the right to housing in the Constitution, the rules governing new constructions and the legislation on the transformation of areas under disaster risk. Given the lack of detailed information, it found that the situation was not in conformity with the Charter on the ground that it had not been established that adequate housing was defined in law (Conclusions 2015, 2017). It therefore asked whether "adequate housing" in Turkish law corresponded to the notion of adequate housing according to its case-law (see Conclusions 2003, France, and Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 43) and, if so, whether those standards applied to new buildings, but also gradually to the existing housing stock. The Committee asked in that connection whether there was a general scheme for the renovation of existing property and whether it imposed similar criteria as for the construction (Conclusions 2017).

In reply to the Committee's requests, the report states that although there is no definition of "adequate housing" in the regulations, under Law No. 6306 on the Transformation of Areas under Disaster Risk, buildings are constructed after licensing procedures pursuant to the Zoning Law No. 3194 in line with architectural and engineering projects prepared in accordance with the current planning conditions and earthquake regulations. According to the Zoning Law, building permission and occupancy permit documents must be obtained from the administration.

As regards health and sanitation requirements, the report indicates that for houses constructed by private companies, certain criteria are required in order to receive a residential permit. In this respect, the building should be in accordance with climate conditions including ventilation and light; it should also meet requirements in terms of drinking and utility water, sewage system, odours and humidity. Social houses constructed by the Housing Development Administration (TOKI) have to meet the criteria set out in the TOKI regulations and the Mass Housing Law No. 2985 (i.e. earthquake risk, construction materials, water and heat insulation, elevators, standard size). There are also certain criteria for renewals of risky areas and buildings under Law No. 6306 and its implementation regulation. The report states that within the scope of this law, as of December 2016, there were 243 955 buildings and 529 857 independent units in a total of 193 risky areas in 50 provinces, with a population of 1 733 930 people.

The Committee takes note of all the information provided in the report. It notes however that it is still not clear whether criteria similar to those applicable to new constructions (by companies or social housing) apply to the existing housing stock. The Committee therefore asks the next report to confirm that such criteria also exist. It also asks that the next report provide up-to-date statistics or figures relating to the adequacy of housing (including on the living space of dwellings/overcrowding).

Pending receipt of the information requested, the Committee considers that the situation is in conformity with the Charter on this point.

Responsibility for adequate housing

In its previous conclusions (Conclusions 2015, 2017), the Committee found that the situation was not in conformity with the Charter on the ground that it had not been established that there were rules imposing obligations on landlords to ensure that dwellings they let were of an adequate standard.

The Committee takes note of the information provided in the report concerning the building permission and the occupancy permit documents that must be obtained for all dwellings (see also Conclusions 2017). However, it finds no information in the report on the maintenance obligations for landlords. It also asks the next report to explain how the adequacy of the existing housing stock (whether rented or not, privately or publicly owned) is checked, whether regular inspections are carried out and what follow-up is given to decisions finding that a dwelling does not comply with the relevant regulations.

The Committee considers, therefore, that the situation remains in breach of the Charter on the ground that it has not been demonstrated that there are rules imposing obligations on landlords to ensure that the dwellings that they let are of an adequate standard.

Legal protection

The Committee previously found that it had not been established that the legal protection of the right to adequate housing was guaranteed (Conclusions 2015, 2017).

The report states that the right to housing is guaranteed by Article 57 of the Constitution. According to this provision, the State shall take measures to meet the housing needs within the framework of a planning that takes into account the characteristics of cities and environmental conditions, and also support community housing projects. The report also refers to different pieces of legislation regulating the eviction of tenants for non-payment of the rent or expiry of the lease term (Enforcement and Bankruptcy Law, Law on Legal Procedures and Code of Obligations).

The Committee asks the next report to provide information on the existence of any other judicial or non-judicial remedies concerning the right to adequate housing available to tenants or occupiers. In this connection, it asks the next report to provide information on the affordability and effectiveness of those remedies and on the existing case-law. Meanwhile, it reserves its position on this point.

Measures in favour of vulnerable groups

In its previous conclusion (Conclusions 2015), the Committee asked the Government to continue to indicate the measures that were being taken in favour of Roma and internally displaced persons in relation to housing. It had previously concluded that measures taken by public authorities to improve the substandard housing conditions of most Roma and internally displaced persons were inadequate or insufficient (Conclusions 2011).

The Committee notes that the current report does not include any information with regard to these two groups of vulnerable persons. In the report submitted in 2017 (cycle 2017), it was stated that TOKI had been including Roma citizens in its urban transformation projects since 2003. The 2017 report also mentioned that social housing was being provided in towns and neighbourhoods where the population of Roma was high (2 088 houses were under construction in these areas).

The Committee notes from ECRI's fifth report on Turkey adopted on 30 June 2016 that an estimated 80% of Roma in Turkey lived in shanty-towns and slum neighbourhoods, some of which were threatened by urban development projects (ECRI report, § 74). It also notes that a National Strategy Document for Social Integration of Roma Citizens (2016-2021), covering issues such as housing, was adopted in 2016. The Committee therefore asks the Government to provide detailed information on the measures that are being taken in favour of Roma, including those adopted in the framework of the implementation of this strategy.

The Committee further asks the next report to provide information on the measures taken in favour of internally displaced persons. It notes in this respect that according to ECRI's fifth report on Turkey, around 1 million Kurds were displaced and many of them continued to live in substandard, illegally built housing and were at risk of eviction (ECRI report of 30 June 2016, § 79). It also notes that the United Nations Committee on the Elimination of Racial

Discrimination expressed concern about the inadequate living conditions of internally displaced persons and recommended that the State should provide them with adequate housing and ensure that returnees recover their property (Concluding observations on the combined 4th to 6th report of Turkey, 10 December 2015, §§ 37-38).

The Committee therefore considers that the situation is in breach of the Charter on the ground that measures taken by public authorities to improve the substandard housing conditions of Roma and internally displaced persons are insufficient.

Finally, the Committee refers to its Statement of Interpretation on the rights of refugees under the Charter (Conclusions 2015). In this respect, it notes that during the reference period Turkey has witnessed an unprecedented influx of refugees coming from Syria. It has been estimated that over 2.7 million Syrian refugees lived in Turkey (ECRI report, § 60; see also the Report of the fact-finding mission to Turkey by the Special Representative of the Secretary General of the Council of Europe on migration and refugees, 30 May-4 June 2016) .

The Committee therefore requests the next report to indicate which measures are taken to ensure adequate housing for refugees, particularly those living outside camps and temporary protection centres.

Conclusion

The Committee concludes that the situation in Turkey is not in conformity with Article 31§1 of the Charter on the grounds that:

- it has not been established that there are rules imposing obligations on landlords to ensure that the dwellings that they let are of an adequate standard;
- measures taken to improve the substandard housing conditions of Roma and internally displaced persons are insufficient.

Article 31 - Right to housing

Paragraph 2 - Reduction of homelessness

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

Preventing homelessness

In its previous conclusion (Conclusions 2015), the Committee asked for comprehensive and updated information on the measures implemented by Turkey to prevent homelessness. It considered in the meantime that the situation was not in conformity with the Charter on the ground that there were no effective measures to reduce and prevent homelessness.

The report submitted in 2017 by Turkey referred to an order called "Homeless Accommodation Project" published by the Ministry of Family and Social Policies on 26 December 2016 for social solidarity foundations, according to which instructions were given to provide services (detection, placement in guesthouses or pensions, and basic services) for the homeless during the period of heavy winter conditions.

The current report refers to the projects and activities of the Housing Development Administration (TOKI) aimed at providing solutions to the housing needs of those who are incapable of buying a house under market conditions. TOKI produces and supplies housing on its own lands for low and middle-income groups who cannot afford a house in current market conditions. In addition, it carries out urban renewal and transformation projects in cooperation with local governments in urban areas with squatted and extremely dense unlicensed buildings, areas with high risk of natural disasters and historical urban areas. According to the statistics provided in the report, as of the end of 2016, 3 350 building sites and 753 946 housing units had been produced in all 81 provinces. 85,50% of the houses produced were characterized as social houses.

While taking note of the information provided in the report, the Committee notes that the report does not provide any information on available statistics of homeless persons in Turkey or on the impact of the measures taken to reduce that number. In light of the obligation under Article 31§2 of the Charter to maintain meaningful statistics on needs, resources and results (see Conclusions 2011, Italy; Conclusions 2015, Turkey), the Committee asks the next report to provide any available statistics on the number of homeless persons in Turkey. It also requests that the next report indicate whether the offer of emergency solutions corresponds to the demand and continue to provide information on the measures implemented by national and local authorities to reduce and prevent homelessness and on the impact of those measures.

Meanwhile, the Committee considers that the situation remains in breach of the Charter on the ground that the measures to reduce and prevent homelessness are insufficient.

Forced eviction

In view of the lack of comprehensive information on the legal framework applicable to legal evictions, the Committee previously considered (Conclusions 2015, 2017) that it had not been established that adequate eviction procedures existed.

As regards the obligation to consult the parties affected with eviction, the eviction procedures and notice periods under the relevant legislation, the report refers to the procedure applicable in case of evictions of owners from buildings that need to be demolished under Article 5 of Law No. 6306 (Law on the Transformation of Areas under Disaster Risk). It notes that in these cases the owner is given a period of no less than sixty days, which can be extended once, to demolish the building, after which period the evacuation and demolition of the structures will be performed by the administration. The report also refers in the context of Article 31§1 of the Charter ("legal protection") to different pieces of legislation regulating the eviction of tenants for non-payment of the rent or expiry of the lease term (Enforcement and Bankruptcy Law, Law on Legal Procedures and Code of Obligations). Under the different proceedings described, different notice periods apply (seven days, fifteen days) for the tenant to evacuate

and deliver the property, but tenants have in any event the right to object to the evacuation order, in which case the enforcement proceedings will be suspended. In that case, the owner is required to initiate proceedings before the enforcement court for the removal of the objection made by the tenant. Even if the objection is removed, the tenant may appeal the decision and request the postponement of the eviction.

The Committee asks the next report to clarify whether there is a specific notice period before evacuation/eviction for tenants who reside in a building subject to demolition under Law No. 6306 and/or whether these tenants may be evicted at any time during the period assigned to the owner/landlord. Meanwhile, it defers its conclusion on this point.

As regards accessibility to legal remedies and legal aid, the Committee noted that constructions and urban transformation projects on risky areas could be suspended for a maximum period of ten years, but that municipalities were entitled to cease suspension only after five years. It asked whether such decisions to cease suspension relied on court decisions and, if not, under what conditions the municipalities were entitled to do so (Conclusions 2017). The current report states that urban transformation projects may be suspended on the basis of decisions given by the courts and that municipalities can provisionally suspend constructions for two years. The Committee also asked whether claimants/applicants in this context were provided with legal aid.

In view of the lack of information on this point, the Committee reiterates its question and asks whether owners affected by urban transformation projects have access to affordable remedies and to legal aid. It also asks whether tenants who reside in buildings affected by these projects have access to legal remedies and to legal aid.

As regards compensation in case of illegal eviction, the report does not provide the information requested in the previous conclusion (Conclusions 2017) concerning the rights granted to persons covered by Law No. 2981 (Law on Certain Actions Applicable to Buildings Violating the Legislation on Land of Development Planning and Squatter Houses) compared to those who are not.

The Committee asks the next report to provide general information on the availability of compensation in case of illegal eviction of owners and tenants evicted from risky areas or buildings.

With regard to the obligation to adopt measures to re-house or financially assist the persons concerned by evictions carried out in the public interest, the report states that, in accordance with Article 5 of the Law No. 6306, temporary residence or rent allowance can be granted to owners and residents (tenants) evicted from risky areas or buildings. The report states that the total amount of rent allowances for risky areas and risky buildings is 3 350 761 689.31 TL and that the total number of persons entitled to these allowances is 7 158 502.

The Committee finally notes that the report provides no information on the obligation to carry out evictions under conditions which respect the dignity of the persons concerned or the prohibition to carry out evictions at night or during winter. It therefore asks the next report to indicate whether such requirements are provided for by law.

Pending receipt of the information requested, the Committee considers that the situation remains in breach of the Charter on the ground that it has not been established that there is adequate legal protection for persons threatened by eviction.

Right to shelter

The Committee asked in its previous conclusion (Conclusions 2017) whether homeless persons who were not entitled to temporary protection status had access to shelter/emergency accommodation. It also asked whether those shelters/emergency accommodations satisfied security requirements (including in the immediate surroundings) and health and hygiene standards (in particular whether they were equipped with basic amenities such as access to

water and heating and sufficient lighting) and whether the law prohibited eviction from shelters or emergency accommodation (Conclusions 2015, 2017). In view of the lack of information, the Committee considered that it had not been established that the right to shelter was guaranteed (Conclusions 2017).

The Committee notes that the current report provides no information in response to its requests and to its conclusion on non-conformity on this point. It therefore reiterates its requests and considers that it has not been established that the right to shelter is guaranteed.

Conclusion

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

- the measures to reduce and prevent homelessness are insufficient;
- it has not been established that there is adequate legal protection for persons threatened by eviction;
- it has not been established that the right to shelter is guaranteed.

Article 31 - Right to housing
Paragraph 3 - Affordable housing

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

Social housing

The Committee previously took note of the relevant provisions of the Constitution (Articles 56 and 57), of the Mass Housing Law No. 2985 and of the duties and programmes of the Housing Development Administration of Turkey (TOKI) in the field of social housing (Conclusions 2015). It also noted that due to the very high demand for TOKI properties, houses were sold to applicants through a lottery supervised by a public notary (Conclusions 2017). The Committee previously considered that in the absence of specific information on the remedies with respect to excessive waiting periods for the allocation of social housing, it had not been established that the situation was in conformity with the Charter on this point (Conclusions 2015, 2017).

The report describes the TOKI social housing programmes aimed at low and middle-income families. It indicates that as of April 2019 (outside the reference period) the production of 837 000 houses had been started by TOKI and that 86,3% of the houses produced were characterized as social houses. Of the total of the houses produced, 45,38% were delivered to low and middle-income families, 18,15% to poor families in the low-income group, and 17,46% to persons in shanty houses subject to transformation projects. The report states that all actions and processes of TOKI are subject to judicial proceedings.

The Committee understands from the report that all actions and procedures of TOKI in the field of social housing may be challenged in the courts. It asks however the next report to provide information on any existing case-law in this area. It also asks for data on the demand for social houses constructed by TOKI and on the number of the beneficiaries who are granted such houses. Finally, it asks that any available information on the average waiting time for social housing be included in the next report.

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

Housing benefits

The Committee previously took note of the house construction/repair aids provided to low-income households (Conclusions 2017). It deferred its conclusion and asked information on whether remedies were available for those who were refused support by social housing projects (Conclusions 2017).

The report mentions that all actions and processes of TOKI in the field of social housing are subject to judicial proceedings (see above, “social housing”).

The Committee takes note of this information and asks the next report to provide information on any existing case-law in this area.

The Committee previously asked whether foreign nationals benefitted from housing benefits on equal footing (Conclusions 2011, 2015). The report states that every Turkish citizen, including Roma people, can apply to social housing projects, without discrimination on ethnic grounds.

In this respect, the Committee recalls that nationals of other States Parties to the Charter and to the 1961 Charter lawfully residing or working regularly are entitled to equal treatment regarding eligibility for non-profit housing (Conclusions 2011, 2015, Slovenia). In this connection, it recalls that the right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.

The Committee asks the next report to clarify whether nationals of other States Parties lawfully residing or working regularly in Turkey can apply for access to social housing projects by TOKI

and, if not, whether other forms of house support or housing benefits are available to them. Pending this clarification, the Committee reserves its position on this point.

Conclusion

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