



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

March 2023

**SECOND REPORT
ON THE NON-ACCEPTED PROVISIONS OF
THE EUROPEAN SOCIAL CHARTER**

NORTH MACEDONIA

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I. SUMMARY

1. Background

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of reports on non-accepted provisions – the Committee of Ministers decided in December 2002 that “states having ratified the Revised European Social Charter (RESC) should report on the non-accepted provisions every five years after the date of ratification” and “invited the European Committee of Social Rights (ECSR) to arrange the practical presentation and examination of reports with the states concerned” (decision of the Committee of Ministers of 11 December 2002).

Following this decision, five years after ratification of the Revised European Social Charter (hereafter, the Charter) and every five years thereafter, the European Committee of Social Rights (hereafter, the Committee) reviews the non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance, given that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the Article 22 procedure is therefore to review the situation after five years and encourage acceptance of more provisions.

North Macedonia ratified the Revised Charter on 6 January 2012, accepting 63 out of 98 paragraphs. It has currently not accepted the following 35 provisions: Article 3§§1 and 3, Article 4§§1 and 4, Article 7§5, Article 9, Article 10§§1-5, Article 14§§1-2, Article 15§3, Article 18§§1-4, Article 19§§2-4,7, and 9-12, Article 22, Article 23, Article 25, Article 27§§1-2, Article 30, and Article 31§§1-3.

2. Previous Examination

The procedure provided by Article 22 of the 1961 Charter was applied to North Macedonia for the first time in the context of a meeting between the European Committee of Social Rights and representatives of various ministries in Skopje on 8 November 2017.

3. Current Examination

This second examination of the non-accepted provisions of the Charter is based on a written procedure. The Government of North Macedonia was invited on 6 October 2021 to submit written information before 31 March 2022. In the absence of a response by the initial deadline, a new deadline was fixed on 15 November 2022. The required written information was finally received on 11 January 2023.

Based on the report submitted by the Government of North Macedonia, the situation in respect of the following non-accepted provisions of the Charter is assessed:

- The right to safe and healthy working conditions - safety and health regulations (Article 3§1)
- The right to safe and healthy working conditions - enforcement of safety and health regulations security system (Article 3§3)
- The right to a fair remuneration - decent remuneration (Article 4§1)
- The right to a fair remuneration - reasonable notice of termination of employment (Article 4§4)
- The right of children and young persons to protection - fair pay (Article 7§5)
- The right to vocational guidance (Article 9)
- The right to vocational training - technical and vocational training and access to higher technical and university education (Article 10§1)

- The right to vocational training - apprenticeship (Article 10§2)
- The right to vocational training - vocational training and retraining of adult workers (Article 10§3)
- The right to vocational training - long term unemployed persons (Article 10§4)
- The right to vocational training - full use of facilities available (Article 10§5)
- The right to benefit from social services - promotion or provision of social services (Article 14§1)
- The right to benefit from social services - public participation in the establishment and maintenance of social services (Article 14§2)
- The right of persons with disabilities to independence, social integration and participation in the life of the community - integration and participation of persons with disabilities in the life of the community (Article 15§3)
- The right to engage in a gainful occupation in the territory of other States Parties - applying existing regulations in a spirit of liberality (Article 18§1)
- The right to engage in a gainful occupation in the territory of other States Parties - simplifying existing formalities and reducing dues and taxes (Article 18§2)
- The right to engage in a gainful occupation in the territory of other States Parties - liberalising regulations (Article 18§3)
- The right to engage in a gainful occupation in the territory of other States Parties - right of nationals to leave the country (Article 18§4)
- The right of migrant workers and their families to protection and assistance: departure, journey and reception (Article 19§2)
- The right of migrant workers and their families to protection and assistance - cooperation between social services of emigration and immigration States (Article 19§3)
- The right of migrant workers and their families to protection and assistance - equality regarding employment, right to organise and accommodation (Article 19§4)
- The right of migrant workers and their families to protection and assistance - equality regarding legal proceedings (Article 19§7)
- The right of migrant workers and their families to protection and assistance - transfer of earnings and savings (Article 19§9)
- The right of migrant workers and their families to protection and assistance - equal treatment for the self-employed (Article 19§10)
- The right of migrant workers and their families to protection and assistance - teaching language of host state (Article 19§11)
- The right of migrant workers and their families to protection and assistance - teaching of migrants' mother tongue (Article 19§12)
- The right of workers to take part in the determination and improvement of working conditions and working environment (Article 22)
- The right of elderly persons to social protection (Article 23)
- The right of workers to protection of their claims in the event of the insolvency of their employer (Article 25)
- The right of workers with family responsibilities to equal opportunity and treatment - participation in working life (Article 27§1)
- The right of workers with family responsibilities to equal opportunity and treatment - parental leave (Article 27§2)
- The right to protection against poverty and social exclusion (Article 30)
- The right to housing - adequate housing (Article 31§1)
- The right to housing - reduction of homelessness (Article 31§2)
- The right to housing - affordable housing (Article 31§3)

Having examined the written information provided by the Government of North Macedonia, the Committee considers that the following provisions could be accepted immediately as there are no significant obstacles in law and in practice to its acceptance : Article 3§1, Article 9,

Article 10§1, Article 10§3, Article 14§1, Article 18§1, Article 18§2, Article 18§4, Article 19§7, Article 19§9, Article 19§10, Article 22.

With regard to the Article 4§4, Article 14§2, Article 15§3, Article 18§3, Article 19§11, Article 19§12, Article 25, Article 27§2, Article 30, Article 31§2, the Committee concludes that legislative changes seem required to bring the situation into line with the Charter.

In respect of Article 3§3, Article 4§1, Article 7§5, Article 10§2, Article 10§4, Article 10§5, , Article 19§2, Article 19§3, Article 19§4, Article 23, Article 27§1, Article 31§1, Article 31§3, the Committee concludes that the written information provided is not sufficient to allow a proper assessment and consequently it is unable to express its view on the possibility of accepting these provisions by North Macedonia.

The Committee invites North Macedonia to consider accepting additional provisions of the Revised Charter as soon as possible so as to consolidate the role of the Charter in guaranteeing and promoting social rights.

The Committee remains at the disposal of the Government for continued and enhanced dialogue on the non-accepted provisions and encourages it to consider acceptance of the non-accepted provisions identified as posing no problems for acceptance.

The factsheet on the provisions of the Revised Charter accepted by North Macedonia appears in Appendix I.

Furthermore, the Committee invites North Macedonia to consider accepting the Additional Protocol providing for a system of collective complaints. The Committee recalls that the collective complaints procedure is intimately linked to core democratic values and to the rule of law. Fully-fledged participation of the social partners and of civil society, including the possibility for them to seek legal remedies for real or perceived injustices, is a defining characteristic of any functioning democracy.

The next examination of the provisions not yet accepted by North Macedonia will take place in 2027.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 3§1 The right to safe and healthy working conditions: safety and health regulations

Situation in North Macedonia

The Government states that no significant new laws and/or by-laws, but only two rulebooks have been prepared and adopted in the field of safety and health at work since the previous [national report](#), and that the Law on Safety and Health at Work dates back from 2007.

The Government indicates that a large consultation process for improving the legal framework for safety and health at work was initiated in 2019. This process included: a comprehensive expert assessment report and analysis of legislation, institutions and relevant stakeholders in terms of compliance with ILO Convention No. 187 (done with the support of ILO experts), and three meetings organised by the Ministry of Labour and Social Policy with separate categories of stakeholders - employers organisations and the chambers of commerce, representatives of workers and trade unions, and respective representatives of practitioners, experts and academia, as well as a joint working meeting with all these stakeholders. As a result, in 2021,

a new draft Law on Safety and Health at Work was prepared, which to date is still under consultation with social partners, other institutions and experts.

The Government indicates that the process for the implementation of the Strategy for Safety and Health at Work 2020 (adopted in August 2017) and its related Action Plan 2017-2020 was broadly participatory, and it included an Evaluation Report, which further served for the preparation of a new Strategy for Safety and Health at Work 2021-2025 and its related Action Plan 2021-2023, both adopted in December 2021.

The Strategy for Safety and Health at Work 2021-2025 focuses on strengthening and improving: the legal framework in occupational safety and health; organisational capacities and human resources in the area; and the ability of the occupational safety and health systems to respond to the existing and the emerging risks.

The Government indicates that consultations with social partners take place on a regular basis within the framework of the National Council for Safety and Health at Work, a government advisory body. This body, which meets at least 3-4 times per year, monitors the implementation of the Strategy for Safety and Health at Work and its Action Plan, and has a proactive role in identifying weaknesses and challenges, and proposing solutions. Among the Council's and Ministry's initiatives was the establishment of the National Award for the company with the best implemented occupational safety and health system. (See for further details [“The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia”](#))

Opinion of the Committee

In Article 3§1, States Parties undertake to formulate, implement, and periodically review a coherent occupational health and safety policy in consultation with social partners.¹

The main policy objective is the maintenance and promotion of a culture of prevention in the areas of health and safety at national level.² Occupational risk prevention should hence be a priority and be incorporated into the public authorities' activities at all levels and form part of other public policies.³ The policy and strategies adopted are to be regularly assessed and reviewed by states parties, particularly in the light of changing risks such as work-related stress, violence and psychosocial risks.⁴

Effective prevention implies that all relevant actors – state authorities, employers and workers – are actively involved in occupational risk prevention within a defined framework of rights and duties.⁵

A culture of prevention implies that all the partners – authorities, employers, and workers – are actively involved in occupational risk prevention, working within a well-defined framework of rights and duties and predetermined structures.

At the governmental level, this entails the development of an appropriate system of public prevention and supervision of the implementation of health and safety standards. The principal aspect of labour inspection covered by Article 3§1 and assessed by the Committee is the duty of inspectors, as part of information, training, and prevention activities, to share the knowledge about risks and risk prevention acquired during inspections and investigations.⁶

¹ Conclusions 2003, Statement of Interpretation on Article 3§1; see in particular [Conclusions 2003, Bulgaria](#)

² [Conclusions 2009, Armenia](#)

³ [Conclusions 2005, Lithuania](#)

⁴ [Conclusions XIV-2 \(1998\), Statement of interpretation on Article 3](#)

⁵ [Conclusions 2005, Lithuania](#)

⁶ [Conclusions 2009, Malta](#)

At the company level, besides compliance with protective rules, the Committee assesses work-related risks and the adoption of preventive measures geared to the nature of risks as well as information and training for workers.⁷ Special attention should be given to some sectors of activity (construction; agriculture; fishing; forestry; metalworks, mining, etc.), some enterprises (small and medium-sized) and special forms of employment (interim; fixed-term; temporary; seasonal), which are particularly exposed. Concerning special forms of employment, employers and/or users are required to provide appropriate information, training and medical supervision, so as to take account of exposure to occupational risks while working for different employers.⁸

In order to implement this provision, States Parties have to take measures to increase general awareness, knowledge and understanding of the concepts of danger and risk, as well as of ways of preventing and managing them. This requirement includes training, information, quality assurance, research activities⁹.

Article 3§1 requires broader consultations not only for tripartite co-operation between authorities, employers and workers to seek ways of improving the working conditions and the working environment, but also for the co-ordination of their activities and co-operation on key safety and prevention issues.¹⁰

Adequate mechanisms and procedures of consultation with employers' and workers' organisations must be set up by the state party concerned.¹¹ At national and sectoral level, this requirement is satisfied where there are specialised bodies made up of representatives of the government and of employers' and workers' organisations, which are consulted by the public authorities.¹² These bodies may be permanent or ad hoc consultation forums, but they must in case be effective with regard to competences, procedures and participants to promote social dialogue on occupational safety and health matters.¹³

In light of the information provided by the Government, the Committee maintains its views from the previous report that North Macedonia would be in position to accept this provision and therefore recommends acceptance of Article 3§1.

Article 3§3 *The right to safe and healthy working conditions - enforcement of safety and health regulations*

Situation in North Macedonia

The Government provides information on the State Labour Inspectorate (SLI), the authority in charge with the effective enforcement of the labour legislation, aiming at decreasing the number of illegally employed persons, protecting the legal rights of workers, and ensuring safe and healthy working conditions. The SLI undertakes supervision and inspection of the application of the occupational safety and health legislation regarding injuries, collective injuries and fatal accidents at work. It also conducts inspection controls upon complaints from employees or employers. The SLI conducts supervision and inspection in cases of reported accidents at work, but also in cases of unreported ones upon indication of the Ministry of the Interior or upon a complaint.

⁷ [Conclusions 2009, Armenia](#)

⁸ [Conclusions XIV-2 \(1998\), Statement of interpretation on Article 3](#)

⁹ Conclusions 2003, Statement of Interpretation on Article 3§1; see in particular [Conclusions 2003, Bulgaria](#)

¹⁰ [Conclusions 2017, Ukraine](#)

¹¹ [Conclusions 2017, Albania](#)

¹² [Conclusions 2017, Ukraine](#)

¹³ [Conclusions 2009, Lithuania](#)

If certain deficiencies or non-implemented measures are determined, the inspectors apply legal inspection measures as: a decision with an order, a decision for prohibition, initiation of a settlement procedure by issuing a payment order, initiation of misdemeanor or criminal proceedings.

The SLI is organised in six departments and has 213 employees, out of which 130 inspectors, 87 in the area of labour inspections and 43 in the area of occupational safety and health. Only 105 inspectors are conducting inspections, as 24 of them do not own an inspector's licence. The SLI is in the process of reinforcing its capacities by slightly increasing the number of inspectors and providing them with the necessary training, as well by modernising the inspectors' working methods, equipment and means. Digitalisation through the E-inspector Platform software allowed since January 2022 to increase the efficiency and effectiveness of inspection activities, by ensuring uniform application of regulations and improved exchange of information.

Furthermore, the Government provides information about the preventive measures, recommendations and decisions taken to reduce the spread of the virus during the COVID-19 pandemic, which were enforced with the supervision of the SLI. The Rulebook on the List of Occupational Diseases was amended in May 2020, so as to include the infectious diseases caused by COVID-19 in certain professions and, in October 2020, the Law on the Protection of the Population from Infectious Diseases was also amended to give state labour inspectors additional powers for performing inspections over the application of measures to protect the population from infectious diseases and to define the sanctions for non-compliance. The Government indicates that during the COVID-19 pandemic, all SLI inspectors were fully mobilised in both inspection activities and in awareness raising conducted together with civil society, social partners and other state institutions representatives.

The Governments indicates that the SLI prepares reports on injuries at work and undertakes all prescribed measures in case of serious accidents that caused absence at work for more than three days, and in cases of fatal accidents. Consequently, it provides various information and statistics, on the number of inspections, the number of injuries at work (accidents which caused the absence of workers for more than three days, collective injuries, and fatal accidents), on an annual basis for the years 2017 to 2022, and by industry sectors for 2020-2022. According to the Government, this information and data is reflected in the annual reports on inspections conducted in the area of occupational safety and health from 2017 to 2022. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)").

Opinion of the Committee

This provision requires States Parties to effectively implement the right to health and safety at work by "measures of supervision". This includes monitoring the number of injuries and occupational diseases at work and supervising the application of the respective regulations as well as consulting employers' and workers' organisations in this field.¹⁴

In assessing compliance with this provision, the Committee reviews the frequency and trends in occupational diseases and injuries.¹⁵ This includes the number of all occupational accidents as well as the number of such accidents in relation to the workforce (incidence rate per 100 000 workers as defined by Eurostat).¹⁶

¹⁴ [Marangopoulos Foundation for Human Rights \(MFHR\) v. Greece, Collective Complaint No. 30/2005](#), decision on the merits of 6 December 2006; [Conclusions XIV-2 \(1998\), Statement of interpretation on Article 3§3](#)

¹⁵ [Conclusions 2013, Bulgaria](#)

¹⁶ [Conclusions XIV-2 \(1998\), Statement of interpretation on Article 3§3 ; see also Conclusions 2013, Bulgaria](#)

The Committee monitors the total number of work-related accidents in all sectors of activity and in respect of all types of workers, including temporary workers and immigrant workers.¹⁷

States Parties must provide information on the incidence rate and the number of recognised and reported occupational diseases (broken down by sector of activity and year),¹⁸ though no criteria have been developed as of yet for assessing the conformity of different levels of incidence rates for these diseases with the Charter.¹⁹

State Parties have a duty to provide precise information on developments in respect of occupational accidents and, in assessing respect for the right enshrined in Article 3§3, the number and frequency of occupational accidents and trends therein are a decisive factor.²⁰ States Parties must take measures to combat possible non-reporting and/or concealment of accidents and diseases.²¹ An ineffective or failing system of reporting of accidents and diseases may lead to a finding of non-conformity.²²

The enforcement of health and safety regulations by means of measures of supervision is carried out in light of Part III Article A§4 of the Charter, according to which States Parties shall maintain a system of labour inspection appropriate to national conditions.²³ In particular, States Parties must:

- take measures to address increasingly complex and multidimensional demands on the competence, resources and institutional capacity of labour inspection systems;²⁴
- implement measures to focus labour inspection on small and medium-sized enterprises (SMEs).²⁵

The proper application of the Charter “cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised.”²⁶ Monitoring of compliance with laws and regulations on occupational safety and health, is a prerequisite for the right guaranteed by Article 3 to be effective.²⁷

States Parties must allocate enough resources to labour inspectors to enable them to conduct a minimum number of regular inspections to ensure that the largest possible number of workers benefit from the right enshrined in Article 3 and that the risk of accidents is reduced to a minimum.²⁸ Article 3§3 is violated when the staffing of the inspection services and the number of visits carried out is manifestly inadequate for the number of employees concerned.²⁹

Inspectors must be entitled to inspect all workplaces, including residential premises, in all economic sectors, private and public.³⁰ They must also have sufficient and appropriate means

¹⁷ [Conclusions XIV-2 \(1998\), Portugal](#)

¹⁸ [Conclusions XXI-2 \(2020\), Spain](#)

¹⁹ [Conclusions 2013, Lithuania](#)

²⁰ [Conclusions 2013, Russian Federation](#)

²¹ [Conclusions 2013, Albania](#)

²² [Ibid.](#)

²³ [Conclusions 2013, Statement of Interpretation on Article 3§3](#) (i.e. on Article 3§2 of the 1961 Charter)

²⁴ [Ibid.](#); [Conclusions 2017, Latvia](#)

²⁵ [Marangopoulos Foundation for Human Rights \(MFHR\) v. Greece](#), Complaint No. 30/2005, decision on the merits of 6 December 2006, §228, citing [International Commission of Jurists against Portugal](#), Complaint No. 1/1998, decision on the merits of 9 September 1999, §32

²⁶ [Marangopoulos Foundation for Human Rights \(MFHR\) v. Greece](#), Complaint No. 30/2005, decision on the merits of 6 December 2006, §228

²⁷ [Conclusions 2013, Statement of Interpretation on Article 3§3](#) (i.e. on Article 3§2 of the 1961 Charter)

²⁸ [Conclusions XIII-1 \(1993\), Statement of Interpretation on Article 3§3](#) (i.e. Article 3§2 of the 1961 Charter)

²⁹ [Conclusions XIII-1 \(1993\), Statement of Interpretation on Article 3§3](#) (i.e. Article 3§2 of the 1961 Charter)

³⁰ [Conclusions XIV-2 \(1998\)](#), [Statement of Interpretation on Article 3§3](#) (i.e. on Article 3§2 of the 1961 Charter); [Conclusions 2009, Republic of Moldova](#)

of information and powers of investigation and enforcement, in particular powers to take emergency measures where they notice an immediate danger to the health or safety of workers.³¹

The enforcement of the regulations in law and in practice must be done in consultation with employers' and workers' organisations with regard to labour inspectorate activities other than participation in company inspections; the latter is assessed under Article 22 of the Charter.³²

In light of the information provided by the Government, the Committee considers that further information, in particular with regard to the incidence rates of occupational injuries, fatal accidents and occupational diseases, as well as information that can determine the efficiency and effectiveness of labour inspection, is needed in order to properly assess the situation in North Macedonia. The Committee invites North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 4§1 *The right to a fair remuneration - Decent remuneration*

Situation in North Macedonia

The Government indicates that the net minimum wage grew continuously in the period 2012-2022. In February 2022, the Law on Minimum Wage was amended and adopted by the Parliament, following an agreement reached by the social partners by tripartite dialogue in the Economic and Social Council. As a result, the net minimum wage as of March 2022 reached MKD 18,000 (293.08 EUR), and new criteria and methodology were established for setting up the minimum wage. Accordingly, the minimum wage will be adjusted by 50% of the annual growth of the average salary and 50% of the growth of the living cost, and will not be lower than 57% of the average net wage paid for the previous year as published by the State Statistical Office. The average paid net wage per employee in 2021 was MKD 28,718 (467.59 EUR). (See for further details "[The Second Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)").

Opinion of the Committee

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state,³³ regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment),³⁴ and to all employment regimes and statuses (for example migrant workers).³⁵

The concept of a "decent standard of living" goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.³⁶

"Remuneration" relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done.³⁷ It covers, where applicable, special bonuses and

³¹ [Conclusions 2005, Lithuania](#)

³² [Conclusions 2005, Norway](#)

³³ [Conclusions XX-3 \(2014\), Greece](#)

³⁴ [Conclusions 2014, France](#)

³⁵ [Conclusions 2014, Andorra](#)

³⁶ [Conclusions 2010, Statement of Interpretation on Article 4§1](#)

³⁷ [Conclusions XIV-2 \(1998\), Statement of Interpretation on Article 4§1](#)

gratuities.³⁸ On the other hand, social transfers (for example social security allowances or benefits) are taken into account only when they have a direct link to the wage.

To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage.³⁹

Where the net minimum wage is between 50% and 60% of the net average wage, it is for the State Party to establish that this wage permits a decent standard of living.⁴⁰ Where the minimum wage is low, the Committee may, when assessing compliance with Article 4§1, take into consideration other elements, such as whether workers are exempt from the co-payment in respect of health care or have the right to increased family allowances.⁴¹

A wage does not meet the requirements of the Charter, irrespective of the percentage, if it does not ensure a decent living standard in real terms for a worker, i.e. it must be clearly above the poverty line for a given country.⁴²

In light of the information provided by the Government, the Committee considers that the further information would be needed regarding the net minimum wage and decent standard of living and it encourages North Macedonia to pursue its efforts and consider acceptance of this provision.

Article 4§4 *The right to a fair remuneration – Reasonable notice of termination of employment*

Situation in North Macedonia

The Government indicates that the amendments to the Law on Labour Relations adopted in 2018 introduced additional criteria on the termination of employment by the employer for “business reason” and “due to personal reasons on the part of the worker”.

According to these amendments, the termination of employment for “business reasons” is done on grounds of the need for efficient functioning of the employer’s operation, the worker’s training and qualifications, their work experience, the success of the work, the type and significance of the workplace, the length of service and other criteria laid down in a collective agreement, as well as criteria for the protection of persons with disabilities, single parents and parents of children with special needs whose employment is terminated on the same basis.

In case of dismissal by the employer “due to personal reasons on the part of the worker”, the employer must give a written warning to the employee about the non-fulfilment of the obligations and the possibility of dismissal.

The employer may terminate the employment contract of the employee if after the written warning the employee does not improve his work, despite having been provided with the necessary working conditions and being given appropriate instructions, guidelines and written warning. In this case, the period of termination of contract is determined by the employer, but cannot be shorter than 15 days as of the day of receipt of the written warning by the employee, in the cases laid down in a collective agreement. (See for further details “[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)”)

³⁸ [Ibid.](#)

³⁹ [Ibid.](#)

⁴⁰ [Conclusions XXI-3 \(2019\), Denmark](#)

⁴¹ [Conclusions XVI-2 \(2004\), Portugal](#)

⁴² [Conclusions XIV-2 \(1998\), Statement of Interpretation on Article 4§1](#)

Opinion of the Committee

This paragraph forms part of the Charter's provision on fair remuneration, as the main purpose of giving a reasonable notice is to allow the person concerned a certain time to look for other work before their current employment ends, i.e. while they are still receiving wages.

This provision applies to all categories of workers, including those in fixed-term,⁴³ temporary, part-time,⁴⁴ intermittent, seasonal or complementary employment,⁴⁵ to civil servant and contractual staff in the civil service, to manual workers and to all sectors of activity. It also applies during the probationary period and upon early termination of fixed term contracts.⁴⁶

Article 4§4 does not apply solely to dismissals, but to all cases of termination of employment, such as termination due to the bankruptcy, invalidity or death of the employer.⁴⁷

The Committee has refrained from defining in absolute terms the word "reasonable".⁴⁸ In fact it followed the reverse procedure and examined on a case-by-case basis if the duration of certain periods of notice were clearly "unreasonable".⁴⁹ A reasonable notice period is one which takes account of the employees' length of service, the need not to deprive them abruptly of their means of subsistence and the need to inform them of the termination in good time to enable them to seek a new job, and during which employees are entitled to their regular remuneration.⁵⁰ It is for governments to prove that these elements have been taken into account when devising and applying the basic rules on notice periods.⁵¹

Receipt of wages in lieu of notice is admitted, provided that the sum paid is equivalent to that which the worker would have earned during the corresponding period of notice.⁵² In order to ensure that the protection granted by Article 4§4 of the Charter is effective, the notice and/or compensation should not be left to the discretion of the parties to the employment contract, but should be governed by legal instruments such as legislation, case law, regulations or collective agreements.⁵³

When a decision to terminate employment on grounds other than disciplinary ones is subject to certain procedures being followed, the period of notice starts only after the decision has been taken.⁵⁴ The period of notice for part-time workers is calculated on the basis of length of service and not of the effective weekly working time.⁵⁵ That of workers with consecutive fixed-term contracts is calculated on the basis of length of service accrued on all consecutive contracts.⁵⁶ Any reduction of the legal period of notice by collective agreement is allowed only insofar as a reasonable period of notice is maintained.⁵⁷

⁴³ [Conclusions XIV-2 \(1998\), Spain](#)

⁴⁴ [Conclusions XVIII-2 \(2007\), Slovak Republic](#), see also [Conclusions 2007, Albania](#)

⁴⁵ [Conclusions 2010, Bulgaria](#)

⁴⁶ [Conclusions XIV-2 \(1998\), Spain](#)

⁴⁷ [Ibid.](#)

⁴⁸ [Conclusions XIII-3 \(1995\), Portugal](#)

⁴⁹ [Ibid.](#)

⁵⁰ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

⁵¹ [Ibid.](#)

⁵² [Conclusions 2010, Turkey](#)

⁵³ [Conclusions 2014, Russian Federation](#)

⁵⁴ [Greek General Confederation of Labour \(GSEE\) v. Greece](#), Complaint No. 111/2014, decision on the merits of 23 March 2017, §200

⁵⁵ [Conclusions XVIII-2 \(2007\), Slovak Republic](#)

⁵⁶ [Greek General Confederation of Labour \(GSEE\) v. Greece](#), Complaint No. 111/2014, decision on the merits of 23 March 2017, §200

⁵⁷ [Conclusions XVIII-2 \(2007\), The Netherlands](#)

The only exception to the right of all workers to a reasonable period of notice concerns immediate dismissal for serious offences set out in the Annex to the Charter.⁵⁸ It may be the result of the accumulation of several less serious breaches, if there have been prior written warnings from the employer.⁵⁹ Other permitted grounds of immediate dismissal without a period of notice or compensation, in particular a failure by the worker to perform, a loss of trust in the worker or a call up of the worker for military service have been found not to be in conformity with the Charter.⁶⁰

In light of the information provided by the Government, the Committee encourages North Macedonia to pursue legislative changes in order to further align the current legislation with the requirements of the Charter and the related case law and consider acceptance of this provision.

Article 7§5 *The right of children and young persons to protection - Fair pay*

Situation in North Macedonia

The Government indicates that the amendments of the Law on Labour Relations adopted in 2018 extended the protection of children under 15 years of age and children who have not completed compulsory education. This protection includes performance by children of activities that are regulated by law, limitation of working time to 2 hours per day, and 12 hours per week during school year, and to 6 hours per day or 30 hours per week during school holidays, uninterrupted break of two working weeks.

Furthermore, the Government states that the Law on Youth Allowance was adopted in 2020, to encourage the employment and retaining of young people under 23 years old in manufacturing activities, against the payment of a youth allowance of MKD 3,000 (≈ 48.87 EUR) supplement to the monthly salary for a three-year period. (See for further details "[The Second Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

In application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances.⁶¹ This right may result from statutory law, collective agreements or other means.⁶²

The "fair" or "appropriate" character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged 18 or above).⁶³

The young worker's wage may be less than the adult starting wage, but any difference must be reasonable.⁶⁴ It must not be too substantial and ought to be for a limited time.⁶⁵ For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable and for sixteen/eighteen year-olds, the difference may not exceed 20%.⁶⁶

⁵⁸ Appendix to the European Social Charter (revised), Part II: This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

⁵⁹ [Conclusions 2010, Albania](#)

⁶⁰ [Conclusions 2010, Armenia](#)

⁶¹ [Conclusions 2019, Azerbaijan](#), [Conclusions 2015, Serbia](#), [Conclusions 2011, Ukraine](#)

⁶² Ibid.

⁶³ [Conclusions XI-1 \(1991\), United-Kingdom](#)

⁶⁴ [Conclusions 2019, Azerbaijan](#), [Conclusions 2015, Serbia](#), [Conclusions 2011, Ukraine](#)

⁶⁵ [Conclusions II \(1971\), Statement of Interpretation on Article 7§5](#)

⁶⁶ [Conclusions 2006, Albania](#)

The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter.⁶⁷ If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair.⁶⁸

Apprentices may be paid lower wages, since the value of the on-the-job training they receive must be taken into account.⁶⁹ However, the apprenticeship system must not be deflected from its purpose and be used to underpay young workers.⁷⁰ Accordingly, the terms of apprenticeships should not last too long and, as skills are acquired, the apprentice's allowance should be gradually increased throughout the contract period, 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.⁷¹ After two or three years' vocational training, an apprentice is sufficiently trained and should be considered as an adult worker for wage purposes.⁷²

The Committee takes note of the information provided by the Government and considers that further information would be needed in order to properly assess the situation in North Macedonia, in particular with regard to the payment of apprentices under 18 years of age. The Committee encourages North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 9 *The right to vocational guidance*

Situation in North Macedonia

The Government indicates that vocational guidance is provided by the Employment Service Agency in accordance with the Law on Employment and Insurance in Case of Unemployment and the Operational Plans on Active Employment Programs and Measures and Labour Market Services. Within the Employment Service Agency, the Professional Orientation and Career Counseling Service is in charge with providing vocational guidance. This service is realised in all the 30 employment centres of the Employment Service Agency by trained and qualified psychologists, and it is free of charge. The employment centres have a cooperation with the educational institutions through which pupils and students benefit of vocational guidance. Persons with disabilities are among beneficiaries of these services.

The Government provides information on the number of beneficiaries of the service on annual basis, in the period 2017 – 2022. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Article 9 requires States Parties to set up and operate a service that helps all persons, free of charge, to solve their problems relating to vocational guidance.⁷³ Article 9 provides for a two-fold obligation for States Parties: on one hand the promotion and provision of guidance relating to education possibilities and, on the other hand, guidance services for vocational opportunities.⁷⁴

⁶⁷ [Conclusions IX-1 \(1987\), United Kingdom](#)

⁶⁸ [Conclusions IX-1 \(1987\), United Kingdom](#)

⁶⁹ [Conclusions II \(1971\), Statement of Interpretation on Article 7§5](#)

⁷⁰ [Conclusions 2019, Albania](#)

⁷¹ [Conclusions 2006, Portugal](#); [Conclusions XVII-2 \(2005\), Germany](#); [Conclusions 2019, Austria](#)

⁷² [Conclusions II \(1971\), Statement of Interpretation on Article 7§5](#)

⁷³ [Conclusions I \(1969\), Statement of interpretation on Article 9](#)

⁷⁴ [Conclusions XIV-2 \(1998\), Statement of interpretation on Article 9](#)

Vocational guidance is the service which assists all persons to solve problems related to occupational choice and with due regard to the individual's characteristics and their relation to occupational opportunity.⁷⁵ Vocational guidance facilities should be placed at the disposal not only of unemployed persons but of all categories of students and particularly young people leaving school.⁷⁶ Foreigners and stateless persons must also enjoy access to vocational guidance on an equal footing both within the education system and in the labour market.⁷⁷

Equal treatment with respect to vocational guidance must be guaranteed to everyone, including nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned.⁷⁸ This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training.⁷⁹ To this purpose, length of residence requirements or employment requirements and/or the application of the reciprocity clause are contrary to the provisions of the Charter.⁸⁰ This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.⁸¹

The right to vocational guidance must be guaranteed:

- within the school system (information on training and access to training);⁸²
- within the labour market (information on vocational training and retraining, career planning, etc). In this framework, the right to vocational guidance must be guaranteed shall address in particular to school-leavers, job-seekers and unemployed persons.⁸³

The indicators taken into consideration when assessing vocational guidance are: objectives, organisation, operation, overall expenditure, number of staff and number of beneficiaries.⁸⁴

Vocational guidance must be provided free of charge, by a sufficient number of qualified staff, to a significant number of persons and with an adequate budget, both within the school system and within the labour market.⁸⁵

During times of economic recession vocational guidance is of great importance.⁸⁶

Situations where only 50% of schools offer consistent vocational services are not in conformity with Article 9 of the Charter.⁸⁷

Where States Parties have accepted Article 9 and Article 15, vocational guidance of persons with disabilities is dealt with under Article 15.⁸⁸ A lack of information on the expenditure and staffing related to vocational guidance services offered to persons with disabilities leads to a finding of non-conformity under Article 9.⁸⁹

⁷⁵ [Conclusions IV \(1975\), Statement of interpretation on Article 9](#)

⁷⁶ [Conclusions I \(1969\), Statement of interpretation on Article 9](#)

⁷⁷ [Conclusions 2020, Bosnia and Herzegovina](#)

⁷⁸ [Conclusions 2020, Montenegro](#)

⁷⁹ [Ibid.](#)

⁸⁰ [Conclusions XVI-2 \(2003\), Poland](#)

⁸¹ [Conclusions 2012, Montenegro](#)

⁸² [Ibid.](#)

⁸³ [Ibid.](#)

⁸⁴ [Ibid.](#)

⁸⁵ [Conclusions 2020, Lithuania](#)

⁸⁶ [Conclusions IV \(1975\), Statement of interpretation on Article 9](#)

⁸⁷ [Conclusions 2020, Lithuania](#)

⁸⁸ [Conclusions 2003, France](#)

⁸⁹ [Conclusions 2020, Azerbaijan](#)

In view of these requirements and the information provided by the Government, the Committee considers that there are no major obstacles in law and practice to acceptance of Article 9, provided that reliable statistics on the number of beneficiaries and the human and budgetary resources allocated to vocational guidance are regularly gathered and assessed. Therefore, the Committee invites North Macedonia to consider acceptance of Article 9.

Article 10§1 *The right to vocational training - Technical and vocational training and access to higher technical and university education*

Situation in North Macedonia

The Government states that several reforms are in progress and changes have been piloted in order to ensure the matching of vocational training with labour market needs, and consequently to reduce unemployment especially among young people and vulnerable categories.

These pilot projects have been and are implemented with the support of the EU, US, German and Swiss Embassies. As a result, an amendment to the Law on Vocational Education and Training was adopted to regulate the creation of the aforementioned Regional Centres for Vocational Education and Training. Furthermore, a new Draft Law on Vocational and Training is to be adopted. The new Law will regulate the concept of dual education model, connecting secondary vocational education to business sector.

The Government indicates that in the school year 2021/2022, 1,468 students enrolled in dual education model in 46 schools in cooperation with 220 companies, while in the school year 2022/2023 the number further increased to 2,763 enrolled students in 61 schools in cooperation with 450 companies. Moreover, new scholarships were introduced for the first time in 2020 for students from secondary vocational education for a number of professions that appeared to be required on the Labour Market following a dedicated Survey.

The Government also provides information on vocational trainings concerning inclusive education, of which benefitted more than 130 teachers from the three Regional Centres for Vocational Education and Training, and on vocational training delivered in penitentiary institutions to more than 400 beneficiaries in the period 2016 - 2020, on vocational training delivered to 628 long-term unemployed young and Roma persons, as well as on vocational training delivered to 1,170 long-term unemployed persons (out of which 85% women, and 20% Roma women), in the period 2018-2022.

According to the Government, reforms in the secondary education are being introduced in a new Draft Law on Secondary Education to promote inclusive education, by engagement of educational mediators for students coming from vulnerable families, providing for several financial exemption and educational and personal assistants for students with disabilities, review of curricula to respond to students' individual needs, etc. These measures are part of the Government's Operational Plan for Active Employment Measures and Programs and Labour Market Services. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

The right to vocational training must be guaranteed to everyone.⁹⁰

⁹⁰ [Conclusions I \(1969\), Statement of Interpretation on Article 10§1](#)

Article 10§1 covers all kind of higher education.⁹¹ In view of the evolution of national systems, which tend to blur the boundaries between education and training at all levels and merge them into an approach promoting lifelong learning, the notion of vocational training of Article 10§1 covers: initial training (i.e. general and vocational secondary education), university and non-university higher education, and vocational training organised by other public or private actors (including continuing training, which is dealt with under Article 10§3).⁹² University and non-university higher education are considered to be vocational training insofar as they provide students with the knowledge and skills necessary to exercise a profession.⁹³

At a time of economic recession, the importance of vocational training should be emphasised, and priority should be given to young persons, who face high levels of unemployment.⁹⁴

In order to provide for vocational training States Parties must:

- ensure general and vocational secondary education, university and non-university higher education, as well as apprenticeships and continuing education;⁹⁵
- build bridges between secondary vocational education and university and non-university higher education;⁹⁶
- introduce mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;⁹⁷
- take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market.⁹⁸

The main indicators of compliance with Article 10§1 include: the existence of the education and training system; that system's total capacity (in particular, the ratio between training places and candidates); the total spending on education and training as a percentage of the GDP; the completion rate of young people enrolled in vocational training courses and of students enrolled in higher education; the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.⁹⁹

Strategies and measures must be adopted to match the skills acquired through vocational education and training with the demands of the labour market, and in particular in view of technological developments and of globalisation.¹⁰⁰

Equal treatment with respect to access to vocational training must also be guaranteed to nationals of other States Parties lawfully resident or regularly working on the territory of the State Party concerned in accordance with the Appendix to the Charter.¹⁰¹ Measures must be taken to integrate migrants and refugees into vocational education and training.¹⁰² Where the law on employment promotion and labour market institutions does not provide for any specific instruments on vocational training or skills development for refugees, the situation is not in conformity with Article 10§1.¹⁰³

⁹¹ [Conclusions 2003, France](#)

⁹² [Ibid.](#)

⁹³ [Ibid.](#)

⁹⁴ [Conclusions IV \(1975\), Statement of Interpretation on Article 10](#)

⁹⁵ [Conclusions 2007, Ireland](#)

⁹⁶ [Conclusions 2016, Russian Federation](#)

⁹⁷ [Ibid.](#)

⁹⁸ [Ibid.](#)

⁹⁹ [Conclusions 2012, Cyprus](#)

¹⁰⁰ [Conclusions 2020, Ukraine](#)

¹⁰¹ [Conclusions 2003, Slovenia](#)

¹⁰² [Conclusions 2020, Estonia](#)

¹⁰³ [Conclusions XXII-1 \(2020\), Poland](#)

The Committee takes notes of the progress made since the previous reporting, as well as of the affirmative measures to organise the system of education and training, so as to match the knowledge and skills acquired through vocational training to labour market requirements. Therefore, the Committee continues to recommend acceptance of Article 10§1.

Article 10§2 *The right to vocational training - Apprenticeship*

Situation in North Macedonia

The Government indicates that there have been no developments in respect of this provision.

Opinion of the Committee

The apprenticeship facilities referred to in the Charter should not be purely empirical or aim solely at manual training but should be conceived in broad terms and comprise full, co-ordinated and systematic training.¹⁰⁴

“Apprenticeship” means training based on a contract between the young person and the employer, whereas other training arrangements can be based on such a contract but also be school-based vocational training.¹⁰⁵ Apprenticeship must combine theoretical and practical training and close ties must be maintained between training establishments and the working world.¹⁰⁶

Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; termination of the apprenticeship contract.¹⁰⁷ In addition, the main indicators for assessing compliance with this provision are the existence of the apprenticeship system and other training arrangements for young people, the quality of such training, i.e. the number of apprentices, the total amount of expenditure – both public and private – devoted to these types of training, and a sufficient supply of places to meet all demands.¹⁰⁸

The compulsory periods of partial experience forming part of the training of students in areas such as medicine, dentistry, law and education, whether in the course of their university studies or after, fall within the scope of Article 10§2.¹⁰⁹

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals on the basis of the conditions mentioned under Article 10§1.¹¹⁰ This implies that no length of residence is required from students and trainees residing in any capacity, or having the right to reside due to their ties with persons lawfully residing, on the territory of the Party concerned before starting training.¹¹¹ This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.¹¹² With respect to access to training, the length of residence or employment requirements and/or the application of the reciprocity clause are not in conformity with the Charter.¹¹³

¹⁰⁴ [Conclusions I \(1969\), Statement of Interpretation on Article 10§2](#)

¹⁰⁵ [Conclusions XIX-1 \(2008\), Slovak Republic](#)

¹⁰⁶ [Conclusions XVI-2 \(2003\), Malta](#)

¹⁰⁷ [Ibid.](#)

¹⁰⁸ [Conclusions 2020, Georgia](#)

¹⁰⁹ [Conclusions III \(1973\), Statement of Interpretation on Article 10§2](#)

¹¹⁰ [Conclusions 2003, Slovenia](#)

¹¹¹ [Ibid.](#)

¹¹² [Ibid.](#)

¹¹³ [Ibid.](#)

The Committee continues to consider that adequate information is required in order to properly assess the situation in North Macedonia in respect of the Article 10§2. The Committee invites North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 10§3 *The right to vocational training - Vocational training and retraining of adult workers*

Situation in North Macedonia

The Government indicates that the competence to carry out training, retraining and additional qualification is provided for by the Law on Employment and Insurance in Case of Unemployment, in the Articles 14, 15 and 16 (Section 3 Training, retraining and additional qualification). The training/measures are elaborated in more detail within an annual Operational Plan for Active Employment Programs and Measures and Labour Market Services, which implementation falls in the remit of the Employment Service Agency.

The following trainings are provided for within the Operational Plan:

- On-the-job training for a known employer;
- Occupations-in-demand training;
- Advanced IT skills training;
- Trainings for C, D and E category drivers licenses;
- Training for acquiring skills from old trades;
- Internship.

The Government provides information on the total number of beneficiaries of the different categories of training specified above, in the period 1 December 2017 - 31 October 2022, indicating the percentage of young people and women, as following:

- On-the-job training for a known employer: 441 persons (34% young people up to 29 years old; 49% women);
- Occupations-in-demand training: 1472 persons (39% young people up to 29 years old; 70% women);
- Advanced IT skills training: 993 persons (75% young people up to 29 years old; 38% women);
- Trainings for C, D and E category drivers licenses: 100 persons (43% young people up to 29 years old; 2% women);
- Internship: 7053 persons (63% women).

Furthermore, it indicates that new types of training can also be provided in accordance with the needs of the labour market (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)").

Opinion of the Committee

The right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people.¹¹⁴ Self-employed persons are also covered by this provision.¹¹⁵ Article 10§3 takes into consideration only those of the activation measures for unemployed people that strictly concern training, while Article 10§1 deals with general activation measures for unemployed people.¹¹⁶ Specific measures for long-term unemployed

¹¹⁴ [Conclusions 2012, Serbia](#)

¹¹⁵ [Ibid.](#)

¹¹⁶ [Ibid.](#)

people are dealt with under Article 10§4.¹¹⁷ The notion of continuing vocational training includes adult education.

For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups (such as women), the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.¹¹⁸

As regards employed persons, the purpose of Article 10§3 of the Charter is, among others, to oblige States Parties to provide facilities for training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change.¹¹⁹ The aim is to prevent the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development.¹²⁰

With respect to unemployed persons, vocational training must be available to them.¹²¹ The activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures - is used to assess the impact of the States Parties' policies.¹²²

In addition, the following aspects are taken into account:

- the existence of legislation on individual leave for training and its characteristics, in particular the length, the remuneration, and the initiative to take it;¹²³
- the sharing of the burden of the cost of vocational training among public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households as regards continuing training.¹²⁴

In light of the information provided by the Government on the situation in law and practice regarding most of the indicators for which information was provided, the Committee sees no obstacles and invites North Macedonia to collect and provide exhaustive information and to consider acceptance of Article 10§3.

Article 10§4 *The right to vocational training - Long term unemployed persons*

Situation in North Macedonia

The Government provides data of the Employment Service Agency regarding the registered long-term unemployed persons, with breakdown by gender, age, education level and length of registered unemployment periods. According to this data, long-term unemployed persons account for 75% of the total of registered unemployed, specifically 84,446 persons.

Furthermore, it provides information on the measures taken by the Employment Service Agency to reduce long-term unemployment and dependency on the guaranteed minimum income, measures which range from counselling and mentoring to training, subsidised

¹¹⁷ [Ibid.](#)

¹¹⁸ [Ibid.](#)

¹¹⁹ [Conclusions XIX-1 \(2008\), Spain](#)

¹²⁰ [Ibid.](#)

¹²¹ [Conclusions XIX-1 \(2008\), Hungary](#)

¹²² [Conclusions 2012, Serbia](#)

¹²³ [Ibid.](#)

¹²⁴ [Ibid.](#)

employments, internships and pilot measures for “hard-to-employ” category. The Employment Service Agency has the European Union funding support through a dedicated project. However, the target group coverage seems to be low compared to the total number of registered long-term unemployed persons. (See for further details “[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)”)

Opinion of the Committee

In accordance with Article 10§4, States Parties must fight long-term unemployment through retraining and reintegration measures.¹²⁵ A person who has been without work for 12 months or more is long-term unemployed.¹²⁶

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.¹²⁷

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals.¹²⁸

In light of these requirements, the Committee considers that further information is needed regarding the impact of the measures taken by the Employment Service Agency in reducing the long-term unemployed persons. The Committee notes the extremely high share of long-term unemployment compared to the total number of unemployment persons. It would like to know whether the impact of training measures on reducing long-term unemployment has been assessed. In consequence, the Committee encourages North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 10§5 *The right to vocational training - Full use of facilities available*

Situation in North Macedonia

The Government reiterates the information provided in the previous report on non-accepted provisions in 2018.

The Government provides information on training for occupations in-demand in the labour market, measure implemented by the Employment State Agency.

This training programme is implemented for a period of up to four months by a verified training provider, at the Centre for Adult Education and the Ministry of Education, and Science, and also includes one-month practical training at the premises of the employer. The criteria for participation in the training for each occupation are defined in the training programmes, in compliance with the Law on Adult Education.

The training providers receive a maximum compensation of MKD 30,000 per trained person, and the trainees receive a monthly net allowance of MKD 5,043 (are added to this amount: personal income tax and insurance in case of work-related accident and occupational disease). Upon completion of the training and verification of the knowledge and skills acquired,

¹²⁵ [Conclusions 2003, Italy](#)

¹²⁶ [Ibid.](#)

¹²⁷ [Conclusions 2020, Cyprus](#)

¹²⁸ [Conclusions 2020, Ukraine](#)

participants receive a certificate of knowledge acquired, which is recorded in the individual file of the registered unemployed person. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Article 10§5 provides for complementary measures which are fundamental to make access effective in practice.

States Parties must ensure that vocational training, as defined in Article 10§1, is provided free of charge or that fees are progressively reduced.¹²⁹ According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned.¹³⁰

The granting of financial assistance in appropriate cases means providing financial assistance to persons who would not otherwise be in a position to undergo apprenticeship or training.¹³¹ It entails, in addition to free or low-cost training, the provision of assistance in the form of grants, allowances or other arrangements where necessary.¹³² All issues relating to financial assistance are covered by Article 10§5, including allowances for training programmes in the context of the labour market policy.¹³³ States Parties must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit.¹³⁴ In any event, assistance should at least be available for those in need and shall be adequate.¹³⁵ It may consist of scholarships or loans at preferential interest rates.¹³⁶ Equal treatment with respect to financial assistance must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.¹³⁷

The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.¹³⁸

The time spent on supplementary training at the request of the employer must be included in the normal working-hours.¹³⁹

States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships.¹⁴⁰ In particular, the participation of employers' and workers' organisations is required in supervising the effectiveness of training schemes.¹⁴¹

The Committee notes that the Government reports no recent developments in respect of this provision, although some relevant information has been provided under Articles 10§§ 1, 2 and 4. However, it encourages the Government to provide information in line with the specific indicators provided above, in particular with regards to the availability of financial assistance and criteria in granting such aid, so it can assess correctly the situation in law and practice in North Macedonia in respect to Article 10§5.

¹²⁹ [Conclusions 2020, Malta](#)

¹³⁰ [Conclusions XVI-2 \(2004\), United Kingdom](#)

¹³¹ [Conclusions XIII-1 \(1993\), Turkey](#)

¹³² [Ibid.](#)

¹³³ [Conclusions 2016, Italy](#)

¹³⁴ [Conclusions XIX-1 \(2008\), Turkey](#)

¹³⁵ [Ibid.](#)

¹³⁶ [Conclusions 2016, Italy](#)

¹³⁷ [Conclusions 2003, Slovenia](#)

¹³⁸ [Conclusions 2016, Italy](#) ; [Conclusions XIV-2 \(1998\), Ireland](#)

¹³⁹ [Conclusions 2020, Turkey](#)

¹⁴⁰ [Conclusions 2020, Lithuania](#)

¹⁴¹ [Conclusions XIV-2 \(1998\), United Kingdom](#)

Article 14§1 *The right to benefit from social services - Promotion or provision of social services*

Situation in North Macedonia

The Government indicates that the social protection reform was initiated in 2019 with the ultimate goal of reducing the poverty rate. Accordingly, a new legislative package was adopted in 2019, which included the Law on Social Protection, the Law on Social Security for the Elderly, and the Law Amending the Law on Protection of Children.

The new Law on Social Protection defined and upgraded the financial allowances available, strengthening the Guaranteed Minimum Assistance (GMA) linkage between social assistance and activation of GMA beneficiaries. In addition, software solutions were implemented to allow for real-time data exchange between the Employment Service Agency and the Centres for Social Work, which enabled the joint preparation of individual activation plans for GMA beneficiaries.

A new Law on Employment and Insurance in Case of Unemployment is planned to be adopted, to enhance the legal framework for the provisions of social services for supported employment through mentoring and counselling.

The strengthening of the legal framework for employment and professional rehabilitation of persons with disabilities is also in progress. The parallel reform in the field of child protection enabled GMA recipients to receive for the first time, child allowance and education allowance.

As part of the reform, a system of case management was introduced, and 650 employees of the Centres for Social Work and the Employment Centres were accordingly trained to use it. The Government presents data with regards to GMA beneficiaries for 2020-2021, including breakdown based on the size of household, education, ethnicity, etc.

The Government specifies that the new Law on Social Protection introduced the following social services:

1. information and referral services;
2. professional help and support services;
3. counselling services;
4. in-home services (personal assistance and home-based assistance and care);
5. community-based services;
6. non-family care services (supported living, foster care, and placement in an institution).

Under the same law, the social protection services are performed by a network of bodies, which includes the Institute for Social Activities, the support centres for foster families, the social protection institutions (the Centres for Social Work, institutions for non-family social protection, centres for social services), foster families, associations, and natural persons, which have to be licensed by the Ministry of Labour and Social Policy, issued a work permit renewable every five years following a positive opinion of the Commission for Licensing Social Service Providers.

The Government indicates that a new draft National Programme for Development of Social Protection 2022-2032 was prepared and includes the medium and long-term policies and measures for future development of the social protection system, social benefits and social services. (See for further details [“The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia”](#))

Opinion of the Committee

The right to benefit from social welfare services provided for by Article 14§1 requires States Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment.¹⁴² Article 14 provides for an individual right subject to an effective right of appeal¹⁴³ to an independent body in urgent cases of discrimination and violation against human dignity.¹⁴⁴

Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population.¹⁴⁵ This distinguishes the right guaranteed by Article 14 from “the various articles of the Charter which require States Parties to provide social welfare services with a narrowly specialised objective”.¹⁴⁶

The provision of social welfare services concerns everybody who finds themselves in a situation of dependency, in particular the vulnerable groups and individuals who have a social problem.¹⁴⁷ Social services must therefore be available to all categories of the population who are likely to need them.¹⁴⁸ Delivery of such services frequently involve and depend on in-person contact and where digital delivery becomes preferable or necessary in the current context, States Parties should ensure that users of social welfare services have effective access to the requisite technology.¹⁴⁹

The Committee has identified the following groups as particularly likely to need social services: children, older persons, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), homeless persons, alcoholics and drug addicts, female victims of violence and former detainees.¹⁵⁰

Social services include in particular: counselling, advice, rehabilitation and other forms of support from social workers; home help services (assistance in the running of the home, personal hygiene, social support, delivery of meals); residential care; and social emergency care (shelters).¹⁵¹

Under Article 14§1 the Committee reviews rules governing the eligibility conditions to benefit from the right to social welfare services (as an issue related to effective and equal access), the quality and supervision of the social services, and the rights of beneficiaries and their participation in the establishment and maintenance of social welfare services (Article 14§2). Persons applying for social welfare services should receive any necessary advice and counselling enabling them to benefit from the available services in accordance with their needs.¹⁵² The access to social services must be effective and equal.¹⁵³

The right to social services must be guaranteed in law and in practice.¹⁵⁴ Social services must have resources that correspond to their responsibilities and the changing needs of users.¹⁵⁵

¹⁴² [Conclusions 2005, Bulgaria](#)

¹⁴³ [International Federation of Human Rights \(FIDH\) v. Belgium, Collective Complaint No. 75/2011, decision on the merits of 18 March 2013](#)

¹⁴⁴ [Conclusions 2017, Austria](#)

¹⁴⁵ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹⁴⁶ [Ibid.](#)

¹⁴⁷ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹⁴⁸ [Ibid.](#)

¹⁴⁹ Statement on Covid-19 and social rights adopted on 24 March 2021

¹⁵⁰ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹⁵¹ [Conclusions 2005, Bulgaria](#)

¹⁵² [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹⁵³ [Conclusions 2005, Bulgaria](#)

¹⁵⁴ [Ibid.](#)

¹⁵⁵ [Ibid.](#)

This implies that: (i) staff shall be qualified and in sufficient numbers; (ii) decision-making shall be as close to users as possible; (iii) there must be mechanisms for supervising the adequacy of services, public as well as private.¹⁵⁶

The Committee takes note of the information provided and the progress of the reform of social protection system, in law and practice. Provided that adequate information about the monitoring and evaluation of social services show effective and equal access of beneficiaries, the Committee does not see any obstacles to acceptance of the Article 14§1 of the Charter.

Article 14§2 *The right to benefit from social services - Public participation in the establishment and maintenance of social services*

Situation in North Macedonia

The Government indicates that the new Law on Social Protection adopted in 2019 provides for the development of new in-home and local community-based services and introduces a system of licencing and public financing of non-public social service providers. This is done based on a Methodology for Calculating Costs of Services, in line with a Decision on Determining Costs of Social Services adopted on annual basis. As a result, 69 social services providers (associations of citizens and private entities) have been registered in the network of social services providers, with the capacity to provide services to about 4 000 beneficiaries.

The Government indicates that with a loan from the World Bank, it is progressively decentralising social services delivery to municipalities, supporting them with capacity building to create and implement local social protection policies, as well as supporting them with grants to this effect. The responsibility of monitoring the work of the local service providers has been transferred to municipalities and the Centre for Social Work, on all aspects including effectiveness, quality of service and use of funds.

Many elements related to this decentralisation are in progress and to be defined and established in accordance with the new Law on Social Protection, such as the development of a proper monitoring system, the introduction of a co-financing system of the costs of social services by beneficiaries (currently the social services are provided free of charge), establishment of councils for social protection at regional level, and the creation of social enterprises as active employment measures for vulnerable categories.

A new Law on Social Entrepreneurship has been prepared in 2022, the adoption of which is expected in 2023. (See for further details [“The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia”](#))

Opinion of the Committee

Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services.¹⁵⁷ This does not imply a uniform model, and States Parties may achieve this goal in different ways: they may promote the establishment of social services jointly run by public bodies, private concerns and voluntary associations, or they may leave the provision of certain services entirely to the voluntary sector. The “individuals and voluntary or other organisations” referred to in paragraph 2 include: the voluntary sector (non-governmental organisations and other associations); private individuals, and private firms.¹⁵⁸

¹⁵⁶ [Ibid.](#)

¹⁵⁷ Conclusions 2005, Statement of Interpretation on Article 14§2

¹⁵⁸ [Conclusions 2015, Turkey](#)

The Committee examines all forms of support and care mentioned under Article 14§1 as well as financial assistance or tax incentives for the same purpose. States Parties must ensure that private services are accessible on an equal footing to all and are effective, in conformity with the criteria mentioned in Article 14§1. Specifically, States Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers involved. In order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, effective preventive and reparative supervisory system is required.¹⁵⁹

Article 14§2 also requires States Parties to encourage individuals and organisations to play a part in maintaining services, for example by taking action to strengthen the dialogue with civil society in areas of welfare policy which affect the social welfare services. This includes action to promote representation of specific user-groups in bodies where the public authorities are also represented, as well as action to promote consultation of users on questions concerning organisation of the various social services and the aid they provide.¹⁶⁰ A system of authorisation or accreditation must be set up and the standard of services provided by voluntary organisations must be monitored.¹⁶¹

The Committee takes note of the information provided by the Government and of the progress in the implementation of the reform of the social protection system and its decentralisation, which is still ongoing. The Committee invites the Government to take full account of requirements of the Charter and its case law in the framework of this reform. Consequently, the Committee recommends that North Macedonia continue its consideration of Article 14§2 of the Charter with a view to its possible acceptance in the near future.

Article 15§3 The right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community

Situation in North Macedonia

The Government provides information on the legal framework, policies and measures put in place to promote inclusion and respect of the rights of persons with disabilities. It states that efforts were made to change the perception of disability from an old medical model to a current non-medical model, which encourages the strengths and abilities of children with disabilities.

The legal framework stems from the Constitution which guarantees equality of all its citizens before the Constitution. The UN Convention on the Rights of Persons with Disabilities and its Optional Protocol (hereafter Convention) was ratified by the country and became integral part of its legal system.

A number of laws guarantee the rights of persons with disabilities, including the new Law on Prevention and Protection against Discrimination adopted in 2020, the new laws in the fields of social protection and protection of children, the laws in the fields of education, labour relations, the pension system, health care, transport, construction, and the law regulating the work of the National Organisations of Persons with Disabilities.

The policy framework includes the National De-institutionalisation Strategy 2018 – 2027 and its related Action Plans 2020- 2021, respective 2022-2024, which show the strong political commitment of the Government to transition from institutional to family and community care;

¹⁵⁹ [Conclusions 2005, Bulgaria](#)

¹⁶⁰ [Ibid.](#)

¹⁶¹ [Conclusions 2017, Armenia](#)

the National Strategy for Equality and Non-discrimination, and the National Strategy for the Rights of Persons with Disabilities.

The institutional framework includes the Assembly, which established an informal inter-party parliamentary group for the rights of persons with disabilities, and the Government, which established in 2018 the National Coordination Body for the implementation of the Convention.

The Government indicates that the policy-making process in this field is an inclusive one having all the relevant ministries involved (Ministry of Labour and Social Policy, Ministry of Education and Science, Ministry of Health, and Ministry of Transport and Communications, etc.) as well as public institutions, such as the Centres for Social Work (30 in total in the country), the network of kindergartens, schools, health care centres, local self-government units, etc. The monitoring and protection of the exercise of the rights of persons with disabilities is ensured by the Ombudsman, and also by the Convention monitoring team in which 17 stakeholders take part, including organisations of persons with disabilities.

Furthermore, the Government provides information about changing practice through the application of the International Classification of Functioning, Disability, and Health (ICF), transformation of the special schools into elementary schools, scholarships award to students with disabilities for their integration in the regular education system, construction of sensory rooms, inclusive playgrounds, and progressive improvements of accessibility in educational institutions, progressive introduction of in-home and community based social services, with a gradual increase of the number of licenced service providers. (See for further details "[The Second Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

The right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities).¹⁶² Such measures, including technical aids, must not be pursued in isolation and should be programmed to complement each other, on a clear legislative basis.¹⁶³

To this purpose, Article 15§3 requires:

- the existence of comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated.¹⁶⁴
- the adoption of a coherent policy in the disability context: positive action measures to achieve the goals of social integration and full participation of persons with disabilities.¹⁶⁵ Such measures should have a clear legal basis and be coordinated.¹⁶⁶

To give meaningful effect to the promotion of the full social integration and participation in the life of the community of persons with disabilities:

¹⁶² [Conclusions 2005, Norway](#)

¹⁶³ [Conclusions 2008, Statement of Interpretation on Article 15§3](#); [Conclusions 2005, Norway](#)

¹⁶⁴ [Conclusions 2005, Norway](#)

¹⁶⁵ [Conclusions 2007, Slovenia](#)

¹⁶⁶ [Ibid.](#)

- Mechanisms must be established to assess the barriers to communication and mobility faced by persons with disabilities and identify the support measures that are required to assist them in overcoming these barriers;¹⁶⁷
- Technical aids must be available either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means. Such aids may for example take the form of prostheses, walkers, wheelchairs, guide dogs and appropriate housing support arrangements;¹⁶⁸
- Support services, such as personal assistance and auxiliary aids, must be available, either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means.¹⁶⁹

Article 15§3 requires that persons with disabilities and their representative organisations should be consulted in the design and ongoing review of positive action measures and that an appropriate forum should exist to enable this to happen.¹⁷⁰

Telecommunications and new information technology must be accessible and sign language must have an official status.¹⁷¹

Amongst other things, public health information must be made available in sign language and accessible means, modes, and formats.¹⁷²

Public transports (land, rail, sea and air), all newly constructed or renovated public buildings, facilities and buildings open to the public, and cultural and leisure activities should be physically accessible.¹⁷³

The needs of persons with disabilities must be taken into account in housing policies, including the construction of an adequate supply of suitable, public, social or private, housing.¹⁷⁴ Further, financial assistance should be provided for the adaptation of existing housing.¹⁷⁵

The prevalence of poverty amongst people with disabilities in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of State efforts to ensure the right of people with disabilities to enjoy independence, social integration and participation in the life of the community.¹⁷⁶ The obligation of States to take measures to promote persons with disabilities' full social integration and participation in the life of the community is strongly linked to measures directed towards the amelioration and eradication of poverty amongst people with disabilities.¹⁷⁷ Therefore, the Committee takes poverty levels experienced by persons with disabilities into account when considering the State's obligations under Article 15§3 of the Charter.¹⁷⁸

Measures must also focus on combatting discrimination against, and promoting equal opportunities for, people with disabilities from particularly vulnerable groups such as ethnic minorities, Roma, asylum-seekers and migrants.¹⁷⁹

¹⁶⁷ [Conclusions 2008, Statement of Interpretation on Article 15§3](#)

¹⁶⁸ [Ibid.](#)

¹⁶⁹ [Ibid.](#)

¹⁷⁰ [Conclusions 2020, Serbia](#)

¹⁷¹ [Conclusions 2016, Austria](#), citing [Conclusions 2005, Estonia](#) and [Conclusions 2003, Slovenia](#)

¹⁷² Statement on Covid-19 and social rights adopted on 24 March 2021

¹⁷³ [Conclusions 2016, Latvia](#), citing [Conclusions 2003, Italy](#)

¹⁷⁴ [Conclusions 2003, Italy](#)

¹⁷⁵ [Ibid.](#)

¹⁷⁶ [Conclusions 2020, Andorra](#)

¹⁷⁷ [Ibid.](#)

¹⁷⁸ [Ibid.](#)

¹⁷⁹ [Ibid.](#)

The Committee takes note that a reform is being put in place progressively, in terms of both legal framework and practice. The Committee invites the Government to take full account of the requirements of the Charter and its case law in the framework of the reform process. Consequently, the Committee invites North Macedonia to continue its consideration of Article 15§3 of the Charter with a view to its acceptance in the near future.

Article 18§1 *The right to engage in a gainful occupation in the territory of other States Parties - Applying existing regulations in a spirit of liberality*

Situation in North Macedonia

The Government indicates that the employment of foreign nationals is regulated by the Law on Employment and Work of Foreigners.

The Employment Service Agency is the institution competent for issuing work permits to foreign nationals. The work permits are issued in the limits of a quota established by the Government, upon the proposal of the Employment Service Agency and with consideration of the labour market requirements.

The Government also provides information with regards to the annual number of applications for work permits filed with the Employment Service Agency in the period 2018- 2022. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Article 18§1 applies to employees and the self-employed who are nationals of States which are party to the Charter.¹⁸⁰ It also covers members of their family allowed into the country for the purposes of family reunion.¹⁸¹

Article 18§1 is concerned with administrative practice rather than legal aspects.¹⁸² A State Party May comply with this provision even where its legislation on the employment of aliens contains strict rules, provided that these rules allow some administrative discretion and are applied in a liberal spirit.¹⁸³

Regulations preventing nationals of another State Party from applying for work permit, due to the combined effects of the various rules on entry, length of stay, residence and the exercise of a gainful activity would not be in keeping with this provision of the Charter.¹⁸⁴

Neither restricting a wage-earner or salaried employee who is a national of a State Party to a specific activity under a specific employer, nor systematically refusing a work permit to a foreign national who had entered the territory of another State Party without having obtained a work permit beforehand could be regarded as displaying a "spirit of liberality" or proceeding from a flexible system of regulations.¹⁸⁵

Any regulation which *de jure* or *de facto* restricts an authorisation to engage in a gainful occupation to a specific post for a specific employer cannot be regarded as satisfactory.¹⁸⁶

¹⁸⁰ [Conclusions 2012, Serbia](#)

¹⁸¹ [Ibid.](#)

¹⁸² [Ibid.](#)

¹⁸³ [Ibid.](#)

¹⁸⁴ [Ibid.](#), citing [Conclusions XIII-1 \(1993\), Sweden](#)

¹⁸⁵ [Conclusions III \(1973\), Statement of Interpretation on Article 18](#)

¹⁸⁶ [Conclusions II \(1971\), Statement of interpretation on Article 18](#)

To tie an employed person to an enterprise by the threat of being obliged to leave the host country if they of “a spirit of liberality” or of liberal regulations.¹⁸⁷ Economic or social reasons might justify restricting the employment of aliens to specific types of jobs in certain occupational and geographical sectors, but not the obligation to remain in the employment of a specific enterprise.¹⁸⁸

Limiting access of foreign workers to the national labour market May occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers.¹⁸⁹ However, the implementation of such policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.¹⁹⁰

In order to assess the degree of liberality in applying existing regulations, the Committee requires figures showing the rejection rates for work permits for both first-time and renewal applications.¹⁹¹ A high percentage of successful applications by nationals of States Parties to the Charter for work permits and for renewal of work permits and a low percentage of refusals has been regarded by the Committee as a clear sign that existing regulations are being applied in a spirit of liberality.¹⁹²

In the light of these requirements, while further information on the quota and the refusal rate of work permits would be needed for a full assessment of the situation, the Committee nonetheless continues to consider that North Macedonia could accept Article 18§1 of the Charter.

Article 18§2 The right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes

Situation in North Macedonia

The Government informs the Committee that the situation in this area remained unchanged and the legal provisions provided in the [first national report](#) are still in force.

Opinion of the Committee

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application.¹⁹³ It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.¹⁹⁴ An average time of two months for the granting of both work/residence visa for employees as well as self-employed is in compliance with Article 18§2.¹⁹⁵

¹⁸⁷ [Ibid.](#)

¹⁸⁸ [Ibid.](#)

¹⁸⁹ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

¹⁹⁰ [Ibid.](#)

¹⁹¹ [Conclusions XXII-1 \(2020\), Germany](#)

¹⁹² [Conclusions 2012, Serbia](#)

¹⁹³ [Conclusions 2016, Armenia](#); [Conclusions XVII-2 \(2005\), Finland](#)

¹⁹⁴ [Conclusions XVII-2 \(2005\), Portugal](#)

¹⁹⁵ [Ibid.](#)

Situations where work permits and residence permits are issued under two separate procedures, and foreign nationals are not allowed to submit their applications from within the country, thereby lengthening the time taken to obtain residence permits, are not in conformity with Article 18§2 of the Charter.¹⁹⁶

States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.¹⁹⁷ In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.¹⁹⁸

The Committee considers, however, that increases in chancery dues or other charges can be in conformity with Article 18§2 of the Charter as long as they are made for a good reason (for example in order to cover increased processing costs or inflation) and they are not excessive.¹⁹⁹

The Committee notes that the Government reports no recent developments in respect of this provision, and accordingly continues to recommend acceptance of Article 18§2 of the Charter.

Article 18§3 The right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations

Situation in North Macedonia

The Government indicates that the new Law on Foreigners was adopted during the reporting period. It further states that Article 126 of this law provides for the reasons for revocation of the right to temporary residence:

“The temporary residence of all foreigners who have been granted temporary residence, except those being granted temporary residence as victims of trafficking in human beings, shall be revoked if:

- a foreigner has been granted temporary residence for the purpose of employment, and failed to sign an employment contract with the legal entity or the employment contract was no longer valid prior to the expiry of the period of validity of the issued temporary residence permit for work purposes, or where the foreigner started performing work different from the one stated in the issued temporary residence permit for work purposes, for which the Employment Service Agency shall submit a notification to the Ministry of the Interior.” (See for further details [“The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia”](#))

Opinion of the Committee

Under Article 18§3, States are required to liberalise gradually the regulations governing the employment of foreign workers. The Committee developed assessment standards in the following areas: access to the national labour market; the right to engage in employment; and rights after loss of employment.

States Parties May make foreign nationals’ access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties in general from

¹⁹⁶ [Conclusions XXII-1 \(2020\), Iceland](#); see also [Conclusions 2020, Ukraine](#)

¹⁹⁷ [Conclusions 2012, Statement of Interpretation on Article 18§2](#)

¹⁹⁸ [Ibid.](#)

¹⁹⁹ [Conclusions XXII-1 \(2020\), Iceland](#)

occupying jobs for reasons other than those set out in Article G of the Charter.²⁰⁰ A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as national of that country.²⁰¹ The restrictions initially imposed with regard to access to employment must therefore be gradually lifted.²⁰²

In order not to be in contradiction with Article 18 of the Charter, the implementation of policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States Parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.²⁰³ Such a situation, deriving from the implementation of “priority rules” of the kind just mentioned, would not be in conformity with Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter.²⁰⁴

Both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they pursue the same goal, namely, to enable a foreigner to engage in a gainful occupation.²⁰⁵

In cases where a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State Party concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8.²⁰⁶

The loss of employment should not lead to the cancellation of the residence permit, as this would require the worker to leave the country as soon as possible.²⁰⁷ The validity of the residence permit should in fact be extended to give them enough time to find a new job.²⁰⁸ Early termination of the employment relationship of a foreign national for professional misconduct resulting in the automatic withdrawal of that person’s residence permit with no possibility of seeking new employment is also contrary to Article 18§3 of the Charter.²⁰⁹

In light of the information provided by the Government and its case law, the Committee recommends North Macedonia to pursue changes in legislation in order to bring it in line with Article 18§3 of the Charter, with a view to accepting this provision.

Article 18§4 The right to engage in a gainful occupation in the territory of other States Parties - Right of nationals to leave the country

Situation in North Macedonia

The Government informs the Committee that there have been no updates under this provision.

²⁰⁰ [Conclusions 2012, Ireland](#)

²⁰¹ [Ibid.](#)

²⁰² [Ibid.](#)

²⁰³ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

²⁰⁴ [Ibid.](#)

²⁰⁵ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

²⁰⁶ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

²⁰⁷ [Conclusions XXII-1 \(1991\), Germany](#)

²⁰⁸ [Ibid.](#), citing [Conclusions XVII-2 \(2005\), Finland](#)

²⁰⁹ [Conclusions 2020, The Netherlands](#)

Opinion of the Committee

According to Article 18§4, States Parties undertake not to restrict the right of their nationals to leave the country to engage in gainful employment in other Parties to the Charter.²¹⁰

There must be a legal framework guaranteeing the right of nationals to leave their country without restriction.²¹¹

Persons whose right to leave the country is restricted must have legal remedies to challenge such decisions.²¹²

The only permitted restrictions are those provided for in Article G of the Charter, i.e. those which are “prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.”²¹³

Restrictions may apply during the period of service (either voluntary or obligatory) of medical officers engaged in the armed forces provided that once they are free of their obligations there is no restriction on them exercising their right under Article 18§4.²¹⁴

Blanket restrictions on the right of citizens to leave the national territory go beyond the permitted restrictions under Article G of the Charter and are not in conformity with Article 18§4 of the Charter.²¹⁵

The Committee notes that the Government reports no recent developments in respect of this provision. Consequently, the Committee reiterates its views from the previous report and recommends acceptance of Article 18§4 of the Charter.

Article 19§2 *The right of migrant workers and their families to protection and assistance: Departure, journey and reception*

Situation in North Macedonia

The Government indicates that it remains committed to the management of all relevant aspects of external migrations, taking account of the changes in the characteristics of legal and illegal migration, the need to improve institutional capacities and to align the legislation with the international standards, for the purposes of the advancement of the country’s socio-economic development.

This activity is regulated in the Law on Foreigners (Article 8), according to which the Assembly of North Macedonia, upon proposal by the Government shall enact a resolution on migration policy, specifying situations, problems, and measures to be undertaken in the field of migration.

Two migration policy resolutions have been adopted and implemented thus far: the Resolution on Migration Policy of the Republic of Macedonia 2009-2014 and the Resolution on Migration Policy of the Republic of Macedonia 2015-2020. The Resolution on Migration Policy of the

²¹⁰ [Conclusions 2020, Serbia](#)

²¹¹ [Conclusions 2020, Latvia](#)

²¹² [Ibid.](#)

²¹³ [Conclusions 2005, Cyprus; Conclusions XI-1 \(1989\), The Netherlands](#)

²¹⁴ [European Federation of Public Service Employees \(EUROFEDOP\) v. Greece](#), Complaint No. 115/2015, decision on the merits of 13 September 2017, §52

²¹⁵ [Conclusions 2020, Ukraine](#)

Republic of North Macedonia 2021-2025 has been prepared by the Inter-ministerial Body for the Development and Implementation of the Migration Policy of the Republic of North Macedonia and adopted by the Assembly of the Republic of North Macedonia. (See for further details [“The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia”](#))

Opinion of the Committee

This provision requires that States Parties adopt special measures for the benefit of migrant workers to facilitate their departure, journey and reception.²¹⁶ ‘Reception’ means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty.²¹⁷ Special measures 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.²¹⁸

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.²¹⁹ 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.²²⁰ However, in that case, the need for reception facilities is all the greater.²²¹

In assessing States Parties’ compliance with Article 19§2, the Committee takes into consideration the following information:

- specific steps are taken in the period following the arrival of any new migrants to assist them;
- the assistance, financial or otherwise, available to all migrants in emergency situations, in particular in response to their needs of food, clothing and shelter;
- limits or restrictions on the access of working migrants to state welfare provision;
- the rules govern the access to healthcare for all migrants, irrespectively of their status, in particular in emergency.²²²

In the light of these requirements, the Committee continues to consider that further information is needed concerning whether there is a service for migrant workers that would provide assistance with regard to overcoming difficulties upon arrival. The Committee invites again the Government to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§3 *The right of migrant workers and their families to protection and assistance - Co-operation between social services of emigration and immigration States*

Situation in North Macedonia

The Government provides information about bilateral agreements on social insurance, it signed and ratified with a number of 22 countries. The Government also expressed reservation

²¹⁶ [Conclusions III \(1973\), Cyprus](#)

²¹⁷ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

²¹⁸ [Conclusions IV \(1975\), Germany](#)

²¹⁹ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

²²⁰ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

²²¹ [ibid.](#)

²²² [Conclusions 2019, Armenia](#)

with regards to the possibility of accepting the Article 19§3, given that the majority of the signatory countries do not express their willingness to sign bilateral agreements on social insurance, within which certain protocols would regulate the issue of data exchange on emigration and immigration between the signatory countries of that agreement. (See for further details [“The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia”](#))

Opinion of the Committee

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.²²³ Formal arrangements are not always necessary, especially if there is little migratory movement in a given country.²²⁴ In such cases, the provision of practical co-operation on a need basis may be sufficient.²²⁵

Common situations in which such co-operation would be useful include where the migrant worker, who has left their 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 their country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which they were employed.²²⁶

In order to assess States Parties' compliance with Article 19§3, the Committee takes into consideration the following information:

- the form and nature of contacts and information exchanges established by social services in emigration and immigration countries;
- measures taken to establish such contacts and to promote the cooperation between social services in other countries;
- international agreements or networks, and specific examples of cooperation (whether formal or informal) which exist between the social services of the country and other origin and destination countries;
- whether the cooperation extends beyond social security alone (for example in family matters);
- examples of cooperation at a local level.²²⁷

The Committee considers that further information is needed in order to properly assess the situation and encourages North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§4 *The right of migrant workers and their families to protection and assistance: Equality regarding employment, right to organise and accommodation*

Situation in North Macedonia

The Government informs the Committee that there have been no developments under this provision.

²²³ [Conclusions XIV-1 \(1998\), Belgium](#)

²²⁴ [Conclusions 2019, Albania](#)

²²⁵ [Ibid.](#)

²²⁶ [Conclusions XV-1 \(2000\), Finland](#)

²²⁷ [Conclusions 2019, Albania](#)

Opinion of the Committee

States Parties are required to prove the absence of discrimination, whether direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination.²²⁸ Equality in law does not always and necessarily ensure equality in practice.²²⁹ Hence, additional action becomes necessary owing to the different situation of migrant workers as compared with nationals.²³⁰ States Parties should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.²³¹

Article 19§4 also applies to posted workers, i.e. workers who, for a limited period, carry out their work in the territory of a State other than the State in which they usually work.²³² States must respect the principles of non-discrimination laid down by the Charter in respect of all persons subject to their jurisdiction.²³³

States Parties are also responsible for the regulation in national law of the conditions and rights of workers in cross-border postings.²³⁴

Under Article 19§4(a), States Parties are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion as well as vocational training.²³⁵

Article 19§4(b) requires States Parties to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining, including the right to be founding member and access to administrative and managerial posts in trade unions.²³⁶ States Parties have to ensure that migrant workers enjoy equal treatment when it comes to benefiting from collective agreements on equal pay, or from legitimate collective action in support of such an agreement, in accordance with domestic laws or practice.²³⁷

Under Article 19§4(c), States Parties commit to eliminate all legal and de facto discrimination concerning access to public and private housing.²³⁸ Irregularly present immigrants, however, do not fall within the scope of Article 19§4(c).²³⁹ There must be no legal or de facto restrictions on home-buying,²⁴⁰ access to subsidised housing or housing aids, such as loans or other allowances.²⁴¹

²²⁸ [Conclusions III \(1973\), Statement of Interpretation on Article 19§4](#)

²²⁹ [Conclusions V \(1977\), Statement of interpretation on Article 19](#)

²³⁰ [Ibid.](#)

²³¹ [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden](#), Complaint No. 85/2012, decision on the merits of 3 July 2013, §133

²³² [Conclusions 2015, Statement of interpretation on Article 19§4](#)

²³³ [Ibid.](#)

²³⁴ [Ibid.](#)

²³⁵ [Conclusions VII \(1981\), United Kingdom; Conclusions 2019, Albania](#)

²³⁶ [Conclusions XIII-3 \(1995\), Turkey; Conclusions 2011, Statement of interpretation on Article 19§4b; Conclusions XIX-4 \(2011\), Luxembourg](#)

²³⁷ [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden](#), Complaint No. 85/2012, decision on the merits of 3 July 2013, §140

²³⁸ [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 111-113; [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 145-147 (finding of violation of Article E taken in conjunction with Article 19§4c).

²³⁹ [Ibid.](#)

²⁴⁰ [Conclusions IV \(1975\), Norway; Conclusions 2019, Albania](#)

²⁴¹ [Conclusions III \(1973\), Italy; Conclusions 2019, Albania](#)

The right to equal treatment provided in Article 19§4(c) can only be effective if there is a right of appeal before an independent body against the relevant administrative decisions.²⁴²

The Committee notes that the Government reports no recent developments in respect of this provision. Consequently, the Committee maintains its views from the previous report and concludes that further information is required to properly assess the situation in law and practice. Furthermore, the Committee encourages North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§7 *The right of migrant workers and their families to protection and assistance - Equality regarding legal proceedings*

Situation in North Macedonia

The Government informs the Committee that there have been no developments under this provision.

Opinion of the Committee

Under this provision States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals.²⁴³ This obligation applies to all legal proceedings concerning the rights guaranteed by Article 19 (i.e. pay, working conditions, housing, trade union rights, taxes).²⁴⁴

More specifically, 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 their own choosing should be advised that they may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter.²⁴⁵ Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated.²⁴⁶ Such legal assistance should be extended to obligatory pre-trial proceedings.²⁴⁷

The Committee notes that the Government reports no recent developments in respect of this provision. Consequently, the Committee maintains its views from the previous report and recommends acceptance of Article 19§7 of the Charter.

Article 19§9 *The right of migrant workers and their families to protection and assistance - Transfer of earnings and savings*

Situation in North Macedonia

The Government informs the Committee that there have been no developments under this provision.

²⁴² [European Federation of national organisations working with the Homeless \(FEANSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §204, citing Conclusions XV-1 (2000), Finland

²⁴³ [Conclusions I \(1969\), Italy, Norway, United-Kingdom](#); [Conclusions I \(1969\), Germany](#); [Conclusions 2019, Albania](#)

²⁴⁴ [Conclusions I \(1969\), Germany](#)

²⁴⁵ [Conclusions 2011, Statement of Interpretation on Article 19§7](#)

²⁴⁶ [Ibid.](#)

²⁴⁷ [Ibid.](#)

Opinion of the Committee

This provision requires 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.²⁴⁸ The right to transfer earnings and savings includes the right to transfer movable property (including money).²⁴⁹

The Committee notes that the Government reports no recent developments in respect of this provision. Consequently, the Committee maintains its views from the previous report and recommends acceptance of Article 19§9 of the Charter.

Article 19§10 *The right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

Situation in North Macedonia

The Government informs the Committee that there have no developments under this provision.

Opinion of the Committee

Under this provision, States Parties must extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families.²⁵⁰

States Parties must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice between wage-earners and self-employed migrants.²⁵¹ In addition equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.²⁵²

A finding of non-conformity with regard to any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under Article 19§10, because the same grounds for non-conformity also apply to self-employed workers.²⁵³ Such finding of non-conformity prevents discrimination or difference in treatment.²⁵⁴

The Committee notes that the Government reports no recent developments in respect of this provision. Consequently, the Committee maintains its views from the previous report and finds no major obstacle to the acceptance of this provision and recommends acceptance of Article 19§10 of the Charter.

Article 19§11 *The right of migrant workers and their families to protection and assistance - Teaching language of host State*

Situation in North Macedonia

²⁴⁸ [Conclusions XIII-1 \(1993\), Greece](#)

²⁴⁹ [Conclusions 2011, Statement of Interpretation on Article 19§9](#)

²⁵⁰ [Conclusions I \(1969\), Norway](#)

²⁵¹ [Conclusions 2002, France](#)

²⁵² [Conclusions XVIII-1 \(2006\) Luxembourg](#)

²⁵³ [Conclusions 2019, Albania](#)

²⁵⁴ [Ibid.](#)

The Government indicates that an electronic platform for learning the Macedonian language was developed and placed on the website of the Faculty of Philology in Skopje. This service is primarily intended for persons under international protection residing on the territory of the Republic of North Macedonia. The official state curriculum prepared by the Bureau for Development of Education has not been prepared yet. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Under this provision, States Parties 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.²⁵⁵ The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into normal employment and society at large.²⁵⁶ A requirement to pay substantial fees is not in conformity with the Charter: States Parties are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible.²⁵⁷

Teaching the language of the host country to primary and secondary school students throughout the school curriculum is not enough to satisfy the obligations laid down by Article 19§11.²⁵⁸ States Parties must make special efforts 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.²⁵⁹

States Parties shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities.²⁶⁰ Such services shall be free of charge so as not to exacerbate the disadvantaged position of migrant workers in the labour market.²⁶¹

The Committee takes note that the situation requires changes in legislation and practice to meet the above requirements of Article 19§11. The Committee invites North Macedonia to pursue those changes with a view to accepting this provision in the near future.

Article 19§12 *The right of migrant workers and their families to protection and assistance - Teaching of migrants' mother tongue*

Situation in North Macedonia

The Government informs the Committee that there have been no developments under this provision.

Opinion of the Committee

²⁵⁵ [Conclusions 2002, France](#)

²⁵⁶ [Ibid.](#)

²⁵⁷ [Conclusions 2011, Norway](#)

²⁵⁸ [Conclusions 2002, France](#)

²⁵⁹ [Conclusions 2002, France](#)

²⁶⁰ [Ibid.](#)

²⁶¹ [Ibid.](#)

States Parties should promote and facilitate the teaching of the languages most represented among the migrants present on their territories within their school systems or in other contexts such as voluntary associations or non-governmental organisations.²⁶²

For a comprehensive assessment of the situation under this provision, the Committee takes into consideration, in particular, the following detailed information:

- statistics on major migrant groups,²⁶³
- whether any measures or projects have been put in place in the framework of the school system or other structures to provide education of migrants' mother tongue,²⁶⁴
- whether the children of migrants have access to multilingual education and on what basis; what steps that government has taken to facilitate the access of migrants' children to these schools,²⁶⁵
- whether any non-governmental organisations or other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin, and whether they receive support.²⁶⁶

The Committee notes that the Government reports no recent developments in respect of this provision. Consequently, the Committee reiterates its views from the previous report and encourages North Macedonia to ensure the implementation in practice of the existent legal framework, in particular by adopting the necessary by-laws, with a view to accepting Article 19§12 of the Charter in the near future.

Article 22 The right of workers to take part in the determination and improvement of working conditions and working environment

Situation in North Macedonia

The Government informs the Committee that the situation in this area remained unchanged and the legal provisions stated in the first report are still in force (in the Law on Safety and Health at Work, Law on Labour Relations).

Opinion of the Committee

Article 22 guarantees the rights of workers and their representatives to participation in matters relating to working conditions.

The workers' right to take part in the determination and improvement of the working conditions and working environment implies that workers may contribute, to a certain extent, to the employer's decision-making process.²⁶⁷ The great majority of workers (at least 80 %) must be granted a right to participate in the determination and improvement of the working conditions and working environment within the undertaking.²⁶⁸ This provision applies to all undertakings, whether private or public.²⁶⁹ Even though Article 22 may apply to workers in state-owned

²⁶² [Conclusions 2002, Italy](#); [Conclusions 2011, Armenia](#); [Conclusions 2011, Statement of Interpretation on Article 19§12](#)

²⁶³ [Conclusions 2019, Albania](#)

²⁶⁴ [Ibid.](#)

²⁶⁵ [Ibid.](#)

²⁶⁶ [Ibid.](#)

²⁶⁷ [Conclusions 2005, Estonia](#)

²⁶⁸ [Conclusions 2007, Italy](#)

²⁶⁹ [Conclusions 2018, Latvia](#)

enterprises, public employees are as a whole not covered by this provision.²⁷⁰ It follows that the right of police staff to participation in the determination and improvement of their working conditions and working environment does not fall within the scope of application of Article 22 of the Revised Charter.²⁷¹ States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice and tendency undertakings.²⁷²

Workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-making process and the supervision of the observance of regulations regarding the protection of health and safety within the undertaking.²⁷³

In light of the information provided by the Government, the Committee maintains its views from the previous report and recommends acceptance of Article 22.

Article 23 *The right of elderly persons to social protection*

Situation in North Macedonia

The Government gives information about the progress of the social protection measures in respect of elderly people. It describes the conditions of eligibility to financial allowance for social security of older persons and informs that according to the data of the Ministry of Labour and Social Policy, in September 2022 there were 10, 874 registered beneficiaries.

The Government also indicates that intensive efforts were dedicated to the development of non-family care for older persons, and it provides information on the number of public and private institutions for accommodating older persons and their geographical spread: there are five such public institutions with a total accommodation capacity of 638 beds, and 39 private institutions with an overall accommodation capacity of 1, 588 beds.

The Government indicates that in the framework of the decentralisation of social services to municipalities, which is in progress, 16 of the agreements signed with municipalities and service providers on the provision of home-based assistance and care service, and active aging day care service. As of June 2022, the total number of beneficiaries of these services raised to 582, of which 565 older persons and 17 persons with disabilities. In addition, 30 older persons are covered with the active aging day care service. The Centre for Social Work and the municipalities are responsible for monitoring the work of the service providers. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Article 23 of the Charter is the first human rights treaty provision to specifically protect the rights of older persons.²⁷⁴ The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of

²⁷⁰ [European Council of Police Trade Unions \(CESP\) v. Portugal](#), Complaint No. 60/2010, decision on the merits of 17 October 2011, §36

²⁷¹ [European Council of Police Trade Unions \(CESP\) v. Portugal](#), Complaint No. 60/2010, decision on the merits of 17 October 2011, §36

²⁷² [Conclusions 2018, Latvia](#); see also [Conclusions 2005, Estonia](#)

²⁷³ [Conclusions 2018, Latvia](#)

²⁷⁴ [Conclusions XIII-3 \(1995\), Statement of Interpretation on Article 4 of the Additional Protocol](#) (Article 23)

what life should be for older persons, obliging States Parties to devise and carry out coherent actions in the different areas covered.²⁷⁵

One of the primary objectives of Article 23 is to enable older persons to remain full members of society. The expression “full members” means that older persons must suffer no ostracism or discrimination on account of their age.²⁷⁶ The right to take part in society’s various fields of activity should be granted to everyone active or retired, living in an institution or not.²⁷⁷ According to the Appendix, for the purpose of the application of this paragraph, the term «for as long as possible» refers to the elderly person’s physical, psychological and intellectual capacities.²⁷⁸

The COVID-19 crisis has exposed examples of a lack of equal treatment of older persons, such as in medical care where rationing of scarce resources (e.g. ventilators) has sometimes been based on stereotyped perceptions of vulnerability and decline in old age.²⁷⁹ Too much space was allowed for implicit judgments about the ‘quality of life’ or ‘worth’ of lives of older persons when setting the boundaries for such triage policies.²⁸⁰ Equal treatment calls for an approach based on the equal recognition of the value of older persons’ lives.²⁸¹

Article 23 overlaps with other provisions of the Charter which protect older persons as members of the general population, such as Article 11 (Right to protection of health),²⁸² Article 12 (Right to social security),²⁸³ Article 13 (Right to social and medical assistance) and Article 30 (Right to protection against poverty and social exclusion).²⁸⁴ Article 23 requires States Parties to make focused and planned provision in accordance with the specific needs of older persons.

The focus of Article 23 is on social protection of older persons outside the employment field.²⁸⁵ Non-discrimination legislation should exist at least in certain domains protecting persons against discrimination on grounds of age.²⁸⁶

Article 23 requires States Parties to combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services.²⁸⁷ Pervasive age discrimination persists in many areas of society throughout Europe, including healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities.²⁸⁸ Therefore an adequate legal framework is a fundamental measure to combat age discrimination in these areas.²⁸⁹

Article 23 requires the States Parties to make sure that they have appropriate legislation to, firstly, combat age discrimination outside employment and to, secondly, provide for a procedure of assisted decision making.²⁹⁰

²⁷⁵ [Ibid.](#)

²⁷⁶ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §116

²⁷⁷ [Ibid.](#)

²⁷⁸ Appendix to the European Social Charter (Revised), European Treaty Series - No. 163

²⁷⁹ Statement on Covid-19 and social rights adopted on 24 March 2021

²⁸⁰ [Ibid.](#)

²⁸¹ [Ibid?](#)

²⁸² Statement of Interpretation on the right to protection of health in times of pandemic, 20 April 2020

²⁸³ General Introduction to Conclusions 2017

²⁸⁴ [Conclusions 2017, Ukraine](#)

²⁸⁵ [Conclusions 2009, Andorra](#)

²⁸⁶ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §115

²⁸⁷ [Conclusions 2009, Andorra](#)

²⁸⁸ [Ibid.](#)

²⁸⁹ [Ibid.](#)

²⁹⁰ [Ibid.](#)

Legislation allowing practices leading to a part of the older population being denied access to informal care allowances or other alternative support constitutes a violation of Article 23.²⁹¹ Older persons at times may have reduced capacity-making powers or no such powers or capacity at all.²⁹² Therefore, there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves.²⁹³ This means that older persons cannot be assumed to be incapable of making their own decision just because they have a particular medical condition or disability, or lack legal capacity.²⁹⁴

An older person's capacity to make a particular decision should be established in relation to the nature of the decision, its purpose and the state of health of the elderly person at the time of making it.²⁹⁵

Older persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own.²⁹⁶

In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons, including in instances of reduced decision-making capacity.²⁹⁷ It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights.²⁹⁸

Article 23 also requires States Parties to take appropriate measures against the abuse of older persons.²⁹⁹ Abuse can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect.³⁰⁰ States Parties must therefore take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate abuse and neglect of older persons, and to adopt legislative or other measures.³⁰¹

- *to enable elderly persons to remain full members of society for as long as possible, by means of:*
 - a. *adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;*

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow older persons to lead a 'decent life' and play an active part in public, social and cultural life.³⁰²

However when assessing the adequacy of resources of older persons under Article 23, all social protection measures guaranteed to older persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural

²⁹¹ [Conclusions 2003, France](#)

²⁹² [Ibid.](#)

²⁹³ [Conclusions 2013, Statement of Interpretation on Article 23 – assisted decision-making](#)

²⁹⁴ [Ibid.](#)

²⁹⁵ [Ibid.](#)

²⁹⁶ [Ibid.](#)

²⁹⁷ [Ibid.](#)

²⁹⁸ [Ibid.](#)

²⁹⁹ [Conclusions 2009, Andorra](#)

³⁰⁰ [Ibid.](#)

³⁰¹ [Ibid.](#)

³⁰² [Conclusions 2013, Statement of Interpretation on Article 23 – adequate resources for the older persons](#)

life are taken into account.³⁰³ In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to older persons are examined.³⁰⁴ These resources are then compared with the median equivalised income.³⁰⁵ The Committee also takes into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.³⁰⁶

b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

Although Article 23 only refers to the provision of information about services and facilities, paragraph 1b presupposes the existence of services and facilities.³⁰⁷ Therefore, it is not only information relating to the provision of information about these services and facilities that is examined but also the services and facilities themselves.³⁰⁸ In doing so, the Committee examines the existence, extent and cost of home help services; community-based services; specialised day care provision for persons with dementia and related illnesses; and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons; as well as cultural leisure and educational facilities available to older persons.³⁰⁹ Furthermore, States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services.³¹⁰ Insufficient regulation of fees for service housing and service housing with 24-hour assistance may amount to a violation of Article 23.³¹¹

- *to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:*

a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;

The needs of older persons must be taken into account in national or local housing policies.³¹² The supply of adequate housing for older persons must be sufficient.³¹³ Policies should help older persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.³¹⁴ The improvement of housing conditions of older persons requires considerable public funding as the average older person usually cannot afford the costs of modernisation of their apartment or purchasing a new apartment of higher standard.³¹⁵ Improvement of housing conditions by moving elsewhere is often not a viable option in that it uproots the older person from their “natural” environment.³¹⁶

b. the health care and the services necessitated by their state;

³⁰³ [Ibid.](#)

³⁰⁴ [Ibid.](#)

³⁰⁵ [Ibid.](#)

³⁰⁶ [Ibid.](#)

³⁰⁷ [Conclusions 2003, France](#)

³⁰⁸ [Ibid.](#)

³⁰⁹ [Ibid.](#)

³¹⁰ [Conclusions 2009, Andorra](#)

³¹¹ [The Central Association of Carers in Finland v. Finland, Complaint No 71/2011](#), decision on the merits of 4 December 2012, §53

³¹² [Conclusions 2003, France](#)

³¹³ [Ibid.](#)

³¹⁴ [Conclusions 2013, Andorra; International Federation of Associations of the Elderly \(FIAPA\) v. France](#), Complaint No. 145/2017, decision on the merits of 25 May 2019, §45

³¹⁵ [Conclusions 2009, Andorra](#)

³¹⁶ [Conclusions 2017, Bosnia and Herzegovina](#)

In the context of the right to adequate health care for older persons Article 23 requires that health care programmes and services (in particular primary health care services including domiciliary nursing/health care services) specifically aimed at the elderly must exist, together with guidelines on healthcare for older persons.³¹⁷

In addition, there should be mental health programmes for any psychological problems in respect of older persons, and adequate palliative care services.³¹⁸

- *to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.*

The final part of Article 23 deals with the rights of older persons living in institutions. In this context, it provides that the following rights must be guaranteed: the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the older person, and the right to complain about treatment and care in institutions.³¹⁹

There should be a sufficient supply of institutional facilities for older persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions should be licensed, and subject to an independent inspection body.³²⁰

Older persons of foreign origin in institutional care who unable to communicate in the national language must benefit from measures ensuring that they can express themselves, communicate and be consulted in an appropriate manner.³²¹

Due to the specific COVID-19 related risks and needs in nursing homes, States Parties must urgently allocate sufficient additional financial means towards them, organise and resource necessary personal protective equipment and ensure that nursing homes have at their disposal sufficient additional qualified staff in terms of qualified health and social workers and other staff in order to be able to adequately respond to COVID-19 and to ensure that the above mentioned rights of older people in nursing homes are fully respected.³²²

Older persons and their organisations must be consulted on policies and measures that concern them directly, including on ad hoc measures taken with regard to the current crisis.³²³ Planning for the recovery after the pandemic must take into account the views and specific needs of older persons and be firmly based on the evidence and experience gathered in the pandemic so far.³²⁴

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints and sedatives are also examined under this provision.³²⁵

³¹⁷ [Conclusions 2003, France](#); [Conclusions 2017, Ukraine](#)

³¹⁸ [Conclusions 2003, France](#)

³¹⁹ [Conclusions 2017, Malta](#); [Conclusions 2017 Portugal](#)

³²⁰ [Conclusions 2005, Slovenia](#); [Conclusions XX-2 \(2013\), Czech Republic](#)

³²¹ [Conclusions 2005, Slovenia](#)

³²² Statement on Covid-19 and social rights adopted on 24 March 2021

³²³ Ibid.

³²⁴ Ibid.

³²⁵ [Conclusions 2005, Slovenia](#); [Conclusions 2003, France](#)

The Committee takes note of the information provided by the Government and concludes that further information is required in respect to the aspects indicated in its case law in respect of Article 23 in order to assess properly the situation in North Macedonia.

Article 25 *The right of workers to protection of their claims in the event of the insolvency of their employer*

Situation in North Macedonia

The Government indicates that as of September 2021, it is in the process of transposing Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer, with expert assistance and financial support from the European Union.

The Law on Employment and Insurance in Case of Unemployment will be further amended to be brought into line with this Directive and adequate related mechanisms for the protection of the rights of employees in the event of the insolvency of their employers is under preparation and will be managed by the Employment Service Agency of the Republic of North Macedonia. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Article 25 of the Charter guarantees individuals the right to protection of their claims in the event of the insolvency of their employer.³²⁶ The term "insolvency" includes both situations in which formal insolvency proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of their creditors, and situations in which the employer's assets are insufficient to justify the opening of formal proceedings.³²⁷ In the event of the insolvency of their employer, workers' claims must be guaranteed by a guarantee institution or by any other effective form of protection.³²⁸ States Parties which have accepted this provision benefit from a margin of discretion as to the form of protection of workers' claims; Article 25 does not require the existence of a specific guarantee institution.³²⁹

The Appendix to the Charter stipulates, *inter alia*, the minimum amounts of wages and paid absence that must be covered depending on whether recourse is had to a "privilege system" (three months prior to the insolvency) or a "guarantee system" (eight weeks).³³⁰

The protection afforded, whatever its form, must be adequate and effective including in situations where the assets of an enterprise are insufficient to cover salaries owed to workers.³³¹ Guarantees must exist for workers that their claims will be satisfied in such cases.³³²

Employees' claims must take precedence over other creditors both under formal bankruptcy proceedings and well as in those cases when an enterprise closes down without formally being declared insolvent.³³³

³²⁶ [Conclusions 2003, France](#)

³²⁷ [Conclusions 2012, Statement of Interpretation Article 25](#)

³²⁸ [Ibid.](#)

³²⁹ [Conclusions 2003, France](#)

³³⁰ [Conclusions 2012, Statement of Interpretation on Article 25](#)

³³¹ [Conclusions 2003, France](#)

³³² [Conclusions 2012, Ireland](#)

³³³ [Conclusions 2012, Albania](#)

A privilege system, on its own, cannot be regarded as an effective form of protection in the meaning of Article 25.³³⁴ While a privilege system may amount to effective protection in cases where formal insolvency proceedings are opened, this is not so in situations where the employer no longer has any assets.³³⁵ It serves no purpose to have a privilege system when there are no assets to divide among creditors and consequently States Parties must provide for an alternative mechanism to effectively guarantee workers' claims in those situations.³³⁶

Therefore, situations where there is no alternative to the privilege system are not in conformity with the Charter as such a system does not itself provide effective guarantees of protection of workers' claims in situations where the employer no longer has any assets.³³⁷ A privilege system where workers' claims were ranked below mortgage obligations, foreclosure on property and bankruptcy costs does not amount to an effective protection under the Charter.³³⁸

In order to demonstrate the adequacy in practice of the protection, States Parties must provide information, inter alia, on the average duration of the period from a claim is lodged until the worker is paid and on the overall proportion of workers' claims which are satisfied by the guarantee institution.³³⁹

States Parties may limit the protection of workers' claims to a prescribed amount which shall be of a socially acceptable level.³⁴⁰ Three times the average monthly wage of the employee is an acceptable level.³⁴¹ In addition, the employer is also obliged to pay for claims in respect of other types of paid absence (holidays, sick leave), at not less than three months under a privilege system and eight weeks under a guarantee system.³⁴²

Certain categories of employees may, exceptionally, be excluded from Article 25 protection because of the special nature of their employment relationship.³⁴³ However, it is for the Committee to determine on each occasion whether the nature of the employment relationship warrants such an exclusion.³⁴⁴ Under no circumstances may this be a reason for the exclusion of part-time employees and employees on fixed-term or other temporary contract.

Exclusion of employees having worked less than one year for the same employer from protection against insolvency of their employer is contrary to the Charter.³⁴⁵

The Committee takes note of the information provided by the Government and considers that further changes in law and practice need to be adopted to make acceptance of Article 25 possible. Consequently, the Committee encourages North Macedonia to take into account the requirements of Article 25 and the case law presented above when preparing, enacting and implementing new legislation and policies with regards to the protection of workers in the event of insolvency of their employer.

Article 27§1 *The right of workers with family responsibilities to equal opportunity and treatment - Participation in working life*

³³⁴ [Conclusions 2012, Statement of Interpretation on Article 25](#)

³³⁵ [Ibid.](#)

³³⁶ [Ibid.](#)

³³⁷ [Conclusions 2012](#) and [2020, Albania](#)

³³⁸ [Conclusions 2003, Bulgaria](#)

³³⁹ [Conclusions 2012, Ireland](#)

³⁴⁰ [Ibid.](#)

³⁴¹ [Conclusions 2012, Slovakia](#), citing [Conclusions 2005, Estonia](#)

³⁴² [Conclusions 2012, Slovakia](#)

³⁴³ [Conclusions 2008, Statement of Interpretation on Article 25](#)

³⁴⁴ [Conclusions 2008, Statement of Interpretation on Article 25](#)

³⁴⁵ [Ibid.](#)

Situation in North Macedonia

The Government informs the Committee that the situation in this area remained unchanged and the legal provisions stated in the previous report are still in force.

The Government also indicates that a new Law on Labour Relations is under preparation, providing for certain rights, regarding safety and health at work, of workers in situation of pregnancy, or who have recently given birth or who are breastfeeding, to be aligned to the EU Directive 2019/1158 on work-life balance of parents and carers, as well as to the ILO Maternity Protection Convention (No. 183) and Recommendation (No. 191).

In order to improve the work-life balance and labour market participation, the Government informs that it continues to expand the national capacities for preschool education and the childcare and the elderly care services. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to take appropriate measures:

a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;

Under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment since these persons may face difficulties on the labour market due to their family responsibilities.³⁴⁶

Therefore, measures need to be taken by States Parties to ensure that workers with family responsibilities are not discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training.³⁴⁷

However, when the quality of standard employment services available to everyone is adequate, there is no need to provide extra services for people with family responsibilities.³⁴⁸

b. to take account of their needs in terms of conditions of employment and social security;

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.³⁴⁹ Measures need to be taken concerning the length and organisation of working time.³⁵⁰ Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.³⁵¹

³⁴⁶ [Conclusions 2005, Sweden](#)

³⁴⁷ [Conclusions 2005, Estonia](#)

³⁴⁸ [Conclusions 2003, Sweden](#)

³⁴⁹ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. [Conclusions 2005, Estonia](#)

³⁵⁰ Ibid.

³⁵¹ Ibid.

These measures should apply equally to men and women.³⁵²

The type of measures to be taken cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).³⁵³

Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.³⁵⁴

c. to develop or promote services, public or private, in particular child day care services and other childcare arrangements.

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, that are available and accessible to workers with family responsibilities.³⁵⁵ Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.³⁵⁶

In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.³⁵⁷

In the light of this information, the Committee continues to consider that in order to assess properly the situation further information on the current legal situation and especially actual situation in practice was needed. The Committee invites North Macedonia to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 27§2 *The right of workers with family responsibilities to equal opportunity and treatment - Parental leave*

Situation in North Macedonia

The Government provides information on the process of preparation of the new Law on Labor Relations, that includes intensive consultations and dialogue with social partners and all other relevant stakeholders. One matter to be further regulated and improved with the new law is precisely the issue of equal opportunities for workers with family responsibilities. Establishing a work-life balance for workers, which, according to the Government, is more difficult to apply to women due to their traditional role in the family, is regulated with Directive 2019/1158.

Furthermore, the new legislation will establish the legal grounds for greater involvement of men in the carrying out of family responsibilities, especially in increasing the role of the father in the care and rearing of children, and will provide for maternity leave, mandatory paternity and parental leave, as well as flexible work arrangements for workers with family responsibilities. (See for details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

Opinion of the Committee

Article 27§2 provides for the right to parental leave which is distinct from maternity leave.³⁵⁸ It requires States Parties to provide the possibility for either parent to obtain parental leave, as

³⁵² [Conclusions 2005, Lithuania](#)

³⁵³ [Conclusions 2019, Belgium](#)

³⁵⁴ [Conclusions 2003, Sweden](#)

³⁵⁵ Conclusions 2005, Statement of Interpretation on Article 27§1c; see e.g. [Conclusions 2005, Estonia](#)

³⁵⁶ [Conclusions 2019, Armenia](#)

³⁵⁷ [Conclusions 2003, Italy](#)

³⁵⁸ [Conclusions 2011, Armenia](#)

an important element for the reconciliation of professional, private and family life. The duration and conditions of parental leave should be determined by States Parties.³⁵⁹

Domestic law should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child.³⁶⁰ With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.³⁶¹ The States Parties are under a positive obligation to encourage the use of parental leave by either parent.³⁶²

Remuneration of parental leave plays a vital role in the take up of childcare leave, in particular for fathers or lone parents.³⁶³ States Parties shall ensure that an employed parent is adequately compensated for their loss of earnings during the period of parental leave.³⁶⁴ The modalities of compensation is within the margin of appreciation of the States Parties and May be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations.³⁶⁵ Regardless of the modalities of payment, the level must be adequate.³⁶⁶ Unpaid parental leave is not in conformity with Article 27§2.³⁶⁷

The Committee takes note of the information provided by the Government and considers that further changes in law and practice need to be adopted to make possible the acceptance of Article 27§2. Consequently, the Committee encourages North Macedonia to take into account the requirements of the Article 27§2 of the Charter and the case law presented above when preparing, enacting and implementing new legislation and policies with respect to the right of workers with family responsibilities to parental leave.

Article 30 *The right to protection against poverty and social exclusion*

Situation in North Macedonia

The Government provides information on the poverty rate, which for 2020, according to the State Statistical Office was 21.8% (451 900 people). In addition, the Government provides the poverty rates per Laeken Indicators on Poverty and Social Exclusion, in the period 2013-2020, with breakdown by gender, age groups, household types, economic activity status, indicating that according to a Survey on Income and Living Conditions, the most affected categories are children and youth.

Furthermore, the Government presents the legislative changes introduced by the recent reform of the social protection system, which include the new Law on Social Protection adopted in May 2019, the amendments to the Law on Protection of Children, and the Law on Social Security of the Elderly. As a policy measure, the Government refers to the National Employment Strategy 2021- 2027, which sets the goal to reduce the rate of persons at risk of poverty and social exclusion to 18% by 2027. (See for further details "[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)")

³⁵⁹ [Ibid.](#)

³⁶⁰ [Ibid.](#)

³⁶¹ [Ibid.](#)

³⁶² [Conclusions 2015, Statement of interpretation on Article 27§2](#)

³⁶³ [Conclusions 2011, Armenia](#)

³⁶⁴ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

³⁶⁵ [Ibid.](#)

³⁶⁶ [Ibid.](#)

³⁶⁷ [Conclusions 2019, Ireland, Malta](#)

Opinion of the Committee

Everyone has the right to protection against poverty and social exclusion. Poverty means deprivation due to a lack of resources,³⁶⁸ and living in a situation of poverty and social exclusion violates the right to dignity.³⁶⁹

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework,³⁷⁰ a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance.³⁷¹ It must link and integrate public policies in a consistent way, embedding the fight against poverty and social exclusion in all strands of policy and moving beyond a purely sectoral or target group approach.³⁷²

Effective coordination mechanisms should exist at all levels, including at the level of delivery of assistance and services to the end users.³⁷³ Adequate resources must be made available for the implementation of the measures taken in the context of the overall and coordinated approach under Article 30.³⁷⁴ In many instances, a significant and enduring expansionary fiscal policy effort by the States Parties will be necessary to prevent an increase in poverty and social exclusion.³⁷⁵ Adequate resources are one of the main elements of the overall strategy to fight social exclusion and poverty, and should consequently be allocated to attain the objectives of the strategy.³⁷⁶ The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.³⁷⁷ As long as poverty and social exclusion persist they should also represent an increase in the resources deployed to realise social rights.³⁷⁸

i. Measures to prevent and remove obstacles to access fundamental social rights

The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions.³⁷⁹

ii. monitoring mechanisms involving all relevant actors

States Parties must also adopt monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion.³⁸⁰ Further, States' failure to collect reliable data and statistics in respect of groups generally acknowledged to be socially excluded or disadvantaged, including highly dependent adults with disabilities deprived of access to care and accommodation centres, prevents an "overall and co-ordinated approach" to the

³⁶⁸ [Conclusions 2005 - France](#), [Conclusions 2013](#), [Statement of interpretation on Article 30](#)

³⁶⁹ [Conclusions 2003, France](#)

³⁷⁰ [Conclusions 2003](#), [Statement of interpretation on Article 30](#), see e.g. [Conclusions 2003, France](#)

³⁷¹ [Conclusions 2013](#), [Statement of interpretation on Article 30](#)

³⁷² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

³⁷³ [Ibid.](#)

³⁷⁴ [Ibid.](#)

³⁷⁵ [Ibid.](#)

³⁷⁶ [Conclusions 2005, Slovenia](#)

³⁷⁷ [Conclusions 2003](#), [Statement of interpretation on Article 30](#), see e.g. [Conclusions 2003, France](#)

³⁷⁸ [Ibid.](#)

³⁷⁹ [Ibid.](#)

³⁸⁰ [Ibid.](#)

social protection of these persons and constitutes an obstacle to the development of targeted policies concerning them.³⁸¹

Assessing the effectiveness of policies

When assessing compliance with the Charter, definitions of poverty and social exclusion and measuring methodologies applied at the national level and the main data made available are systematically reviewed.³⁸² The Committee also takes into account a set of indicators in order to assess in a more precise way the effectiveness of policies, measures and actions undertaken by States Parties within the framework of this overall and co-ordinated approach.³⁸³ In doing so, it has made clear that its consideration of state practice in terms of Article 30 reflects an understanding of both income and multi-dimensional understandings of poverty.³⁸⁴

i. Resources

One of the key indicators in this respect is the level of resources (including any increase in this level) that have been allocated to attain the objectives of the strategy,³⁸⁵ in so far as “adequate resources are an essential element to enable people to become self-sufficient”.³⁸⁶

ii. Relative poverty rate

In addition, the main indicator used to measure poverty is the relative poverty rate (this corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income).³⁸⁷

iii. At-risk-of-poverty-rate

Furthermore, the at-risk-of-poverty rate before and after social transfers (Eurostat) is also used as a comparative value to assess national situations.

These resource-related and income-based indicators are employed without prejudice to the use of other suitable parameters that are taken into account by national anti-poverty strategies or plans (e.g. indicators relating to the fight against the ‘feminization’ of poverty, the multidimensional phenomena of poverty and social exclusion, the extent of ‘inherited’ poverty, etc.).³⁸⁸

The absence of decisive progress in combating poverty and social exclusion in a context of economic growth is a ground for non-conformity under Article 30.³⁸⁹

Poverty and social exclusion in times of crisis

Concerning the repercussions of the economic crisis on social rights, the Committee held that, by acceding to the Charter, the Parties have accepted to pursue by all appropriate means, the attainment of conditions in which inter alia the right to health, the right to social security, the

³⁸¹ [International Federation of Human Rights \(FIDH\) v. Belgium](#), Complaint No. 75/2011, decision of 18 March 2013, §§ 193, 197

³⁸² Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

³⁸³ Ibid.; [Conclusions 2013, Statement of interpretation on Article 30](#)

³⁸⁴ See, e.g., the Committee description of ‘the multidimensional poverty and exclusion phenomena’ in its [Conclusions 2005, Norway](#) and [Conclusions 2007, Belgium](#)

³⁸⁵ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

³⁸⁶ Ibid.

³⁸⁷ [Conclusions 2013, Statement of interpretation on Article 30](#)

³⁸⁸ [Ibid.](#)

³⁸⁹ See, e.g., [Conclusions 2017, Ireland](#)

right to social and medical assistance and the right to benefit from social welfare services may be effectively realised.³⁹⁰

Accordingly, it has concluded that “the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most”.³⁹¹

Social exclusion

In particular, the Committee has interpreted the scope of Article 30 as relating both to protection against poverty (understood as involving situations of social precarity) and protection against social exclusion (understood as involving obstacles to inclusion and citizen participation), in an autonomous manner or in combination with other connecting provisions of the Charter.³⁹²

Concerning social exclusion, States have the positive obligation to encourage citizen participation in order to overcome obstacles deriving from the lack of representation of minorities in the general culture, media or the different levels of government, so that these groups perceive that there are real incentives or opportunities for engagement to counter the lack of representation.³⁹³

Further, the reference to the social rights enshrined in Article 30 should not be understood too narrowly. In fact, the fight against social exclusion is one area where the notion of the indivisibility of fundamental rights takes on a special importance.³⁹⁴ In this regard, the right to vote, as with other rights relating to civic and citizen participation, constitutes a necessary dimension in social integration and inclusion and is thus covered by Article 30.³⁹⁵ Therefore, States must also facilitate access to identification documents that are fundamental to obtaining residency and citizenship in order to exercise civil and political participation.³⁹⁶

These two dimensions of Article 30, poverty and social exclusion, constitute an expression of the principle of indivisibility which is also contained in other provisions of the Charter (for example, enjoyment of social assistance without suffering from a diminution of political or social rights, Article 13).³⁹⁷

The relationship between Article 30 and other Charter rights

The Committee has emphasized the very close link between the effectiveness of the right recognised by Article 30 of the Charter and the enjoyment of the rights recognized by other provisions, such as the right to work (Article 1), access to health care (Article 11), social security allowances (Article 12), social and medical assistance (Article 13), the benefit from social welfare services (Article 14), the rights of persons with disabilities (Article 15), the social, legal and economic protection of the family (Article 16) as well as of children and young persons (Article 17), right to equal opportunities and equal treatment in employment and occupation without sex discrimination (Article 20), the rights of the elderly (Article 23) or the

³⁹⁰ General Introduction to Conclusions XIX-2 (2009)

³⁹¹ Ibid.

³⁹² Conclusions 2013, Statement of interpretation on Article 30

³⁹³ [Conclusions 2013, Statement of interpretation on Article 30](#) citing [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §107

³⁹⁴ [Conclusions 2013, Statement of interpretation on Article 30](#)

³⁹⁵ [Conclusions 2013, Statement of interpretation on Article 30](#) citing [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §99

³⁹⁶ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 103 and 108

³⁹⁷ [Conclusions 2013, Statement of interpretation on Article 30](#)

right to housing (Article 31), without forgetting the important impact of the non-discrimination clause (Article E), which obviously includes non-discrimination on grounds of poverty.³⁹⁸

Consequently, together with the indicators mentioned above, when assessing state compliance with Article 30, the Committee also takes into consideration the national measures or practices which fall within the scope of other substantive provisions of the Charter in the framework of both monitoring systems (the reporting procedure and the collective complaint procedure).³⁹⁹ This approach does not mean that a conclusion of non-conformity or a decision of violation of one or several of these provisions automatically or necessarily lead to a violation of Article 30; but such a conclusion or decision may, depending on the circumstances, be relevant in assessing conformity with Article 30.⁴⁰⁰

The Committee takes note of the information provided by the Government, in particular on the ongoing reforms which are to introduce measures to alleviate the situation of certain groups with higher vulnerabilities, and to reduce poverty. The Committee considers that North Macedonia still faces some challenges as regards the requirements of this provision, in particular with regards to insufficient coordination and financial means. The Committee encourages North Macedonia to take into account the requirements of the Article 30 of the Charter and the case law presented above when preparing, enacting and implementing new legislation and policies with respect to protection against poverty and social exclusion.

Article 31§1 *The right to housing - Adequate housing*

Situation in North Macedonia

The Government informs the Committee that the draft text for the Law on Housing has been prepared, and the purpose thereof is to improve the housing situation of all marginalised groups.

Opinion of the Committee

This provision guarantees the effective exercise of the right to adequate housing.⁴⁰¹ State parties should promote access to housing in particular to different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems.⁴⁰²

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.⁴⁰³ States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.⁴⁰⁴ States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources.⁴⁰⁵

³⁹⁸ [Ibid.](#)

³⁹⁹ [Ibid.](#)

⁴⁰⁰ [Conclusions 2013, Statement of interpretation on Article 30](#), citing [EUROCEF v. France](#), Complaint No. 82/2012, decision on the merits of 19 March 2013, §59

⁴⁰¹ [Conclusions 2003, France](#)

⁴⁰² [Conclusions 2003, Italy](#)

⁴⁰³ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁴⁰⁴ [Ibid.](#)

⁴⁰⁵ [Ibid.](#)

The notion of adequate housing must be defined in law. “Adequate housing” means:

1. a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and where specific dangers such as the presence of lead or asbestos are under control;⁴⁰⁶
2. a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;⁴⁰⁷
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2⁴⁰⁸.

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock.⁴⁰⁹ It must also be applied to housing available for rent as well as to housing owner occupied housing.⁴¹⁰

Positive measures in the field of housing must be adopted in respect of vulnerable persons, paying particular attention to the situation of Roma and Travellers. As a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority.⁴¹¹ They, therefore, require special protection.⁴¹² Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases.⁴¹³

The failure to provide a sufficient number of halting sites for Travellers as well as the poor living conditions and operational failures on such sites have led to findings of non-conformity under this provision.⁴¹⁴

Likewise, housing policies which have resulted in the spatial and social segregation of Roma (poorly built housing, on the outskirts of towns, segregated from the rest of the population), have also led to breaches of the Charter.⁴¹⁵

The fact that some refugee and asylum-seeking unaccompanied children may remain for lengthy periods of time in temporary accommodation facilities (emergency hotels and Safe zones) does not satisfy the requirements of long-term accommodation suited to their specific circumstances, needs and extreme vulnerability and violates Article 31§1.⁴¹⁶ These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.⁴¹⁷

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords.⁴¹⁸ States Parties are expected to demonstrate 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

⁴⁰⁶ [Conclusions 2003, France](#)

⁴⁰⁷ [Ibid.](#)

⁴⁰⁸ [Ibid.](#)

⁴⁰⁹ [Ibid.](#)

⁴¹⁰ [Ibid.](#)

⁴¹¹ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁴¹² [Ibid.](#)

⁴¹³ [Ibid.](#)

⁴¹⁴ [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 38, 39, 49; [Conclusions 2019, France](#)

⁴¹⁵ [European Roma Rights Center \(ERRC\) v. Portugal](#), Complaint No. 61/2010, decision on the merits of 30 June 2011, §48

⁴¹⁶ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §145

⁴¹⁷ [Ibid.](#)

⁴¹⁸ [Conclusions 2003, France](#)

does not comply with the relevant regulation.⁴¹⁹ Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.⁴²⁰

Even if under domestic law, local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, States Parties to the Charter are responsible, in terms of their international obligations to ensure that such responsibilities are properly exercised.⁴²¹ Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.⁴²²

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies.⁴²³ Any appeal procedure must be effective.⁴²⁴

In respect of the information provided by the Government, the Committee considers that further information on the current legal situation and practice is required to allow an assessment. The Committee encourages North Macedonia when adopting the Law on Housing to take full account of the criteria it indicates in its case law, with a view to a possible acceptance of Article 31§1 in the near future.

Article 31§2 The right to housing - Reduction of homelessness

Situation in North Macedonia

The Government provides information on measures to prevent and reduce homelessness. One measure concerned 15 homeless Roma families, who were accommodated in temporary dwellings, and provided further support for economic sustainability, socialisation, integration of children in education system and activation of adults in the labour market.

The Government indicates that the social and child protection reforms introduced in 2019 established adequate financial allowances to the most materially deprived families and enhanced the social services for the most vulnerable categories of people, including homeless.

Furthermore, the Government provides information concerning its project for the construction and maintenance of social housing units, and its plans to establish a Centre for day care, reintegration and resocialisation of homeless people, a new Centre for temporary stay and a “Half-way house”. (See for further details “[The Second National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by North Macedonia](#)”)

Opinion of the Committee

⁴¹⁹ [Conclusions 2019, Turkey, Ukraine](#)

⁴²⁰ [Conclusions 2003, France](#)

⁴²¹ [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26, citing [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §29

⁴²² [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No. 39/2006, decision on the merits of 5 December 2007, §79

⁴²³ [Conclusions 2003, France](#)

⁴²⁴ [Conclusions 2015, Austria](#)

Article 31§2 requires States Parties to gradually reduce homelessness with a view to its elimination.⁴²⁵ Reducing homelessness implies the introduction of measures such as provision of immediate shelter and care for the homeless and measures to help such people overcome their difficulties and prevent a return to homelessness.⁴²⁶

Homeless persons are those persons who legally do not have at their disposal a dwelling or other form of adequate housing in the terms of Article 31§1.⁴²⁷

States Parties must take action to prevent categories of vulnerable people from becoming homeless. This requires States Parties to introduce a housing policy for all disadvantaged groups of people to ensure access to social housing and housing allowances. (cf. Article 31§3).⁴²⁸

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.⁴²⁹

Forced eviction can be understood to cover situations involving deprivation of housing which a person occupied due to insolvency or wrongful occupation.⁴³⁰ States Parties must set up procedural safeguards to limit the risk of eviction.⁴³¹

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.⁴³² However, the criteria of illegal occupation must not be unduly wide, and evictions should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.⁴³³

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.⁴³⁴ A notice period of one month in case of eviction due to insolvency or wrongful occupation is not reasonable.⁴³⁵

When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned.⁴³⁶ The law must prohibit evictions carried out at night or during the winter period.⁴³⁷ When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.⁴³⁸ Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.⁴³⁹

⁴²⁵ [Conclusions 2003, Sweden](#)

⁴²⁶ [Ibid.](#)

⁴²⁷ [Conclusions 2003, Italy](#); Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §135

⁴²⁸ [Conclusions 2003, Sweden](#); [Conclusions 2005, Lithuania](#); Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §136

⁴²⁹ [Conclusions 2007, Italy](#)

⁴³⁰ [Conclusions 2003, Sweden](#); [Conclusions 2019, Ukraine](#)

⁴³¹ [Conclusions 2005, Lithuania](#)

⁴³² [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51

⁴³³ [Ibid.](#)

⁴³⁴ [Conclusions 2003, Sweden](#)

⁴³⁵ [Conclusions 2019, Ukraine](#)

⁴³⁶ [Conclusions 2003, Sweden](#)

⁴³⁷ [Ibid.](#)

⁴³⁸ [Ibid.](#)

⁴³⁹ [Ibid.](#)

According to Article 31§2, homeless persons must be offered shelter as an emergency solution.⁴⁴⁰ To ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to clean water and heating and sufficient lighting.⁴⁴¹ Another basic requirement is the security of the immediate surroundings.⁴⁴²

Nevertheless, temporary housing need not be subject to the same requirements of privacy, family life and suitability as are required from more permanent forms of standard housing, once the minimum requirements are met.⁴⁴³

States Parties shall foresee sufficient places in emergency shelters⁴⁴⁴ and the conditions in the shelters should be such as to enable living in keeping with human dignity.⁴⁴⁵

The temporary supply of shelter, however adequate, cannot be considered satisfactory.⁴⁴⁶ Individuals who are homeless should be provided with adequate housing within a reasonable period.⁴⁴⁷ In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.⁴⁴⁸

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.⁴⁴⁹ States Parties are required to provide adequate shelter to children unlawfully present in their territory for as long as they are within their jurisdiction.⁴⁵⁰ As the scope of Articles 31§2 and 17 overlap to a large extent, the Committee assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States Parties have accepted both provisions.⁴⁵¹

The housing of people in reception camps and temporary shelters which do not satisfy the standards of human dignity is in violation of the aforementioned requirements.⁴⁵² States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.⁴⁵³

The exceptional nature of the situation resulting from an increasing influx of migrants and refugees and the difficulties for a State in managing the situation at its borders cannot absolve that State of its obligations under Article 31§2 of the Charter to provide shelter to migrant and

⁴⁴⁰ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §46

⁴⁴¹ Ibid.

⁴⁴² Ibid.

⁴⁴³ Ibid.

⁴⁴⁴ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §107

⁴⁴⁵ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 108-109

⁴⁴⁶ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §106

⁴⁴⁷ Ibid.

⁴⁴⁸ [Conclusions 2003, Italy](#)

⁴⁴⁹ [Conclusions 2019, Greece](#)

⁴⁵⁰ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §117

⁴⁵¹ [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, §173

⁴⁵² [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁴⁵³ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §121

refugee children, in view of their specific needs and extreme vulnerability, or otherwise limit or dilute its responsibility under the Charter.⁴⁵⁴

The Committee considers that eviction from shelters without the provision of alternative accommodation must be prohibited.⁴⁵⁵ Eviction from shelter of persons irregularly present within the territory of a State Party should be prohibited as it would place the persons concerned, particularly children, in a situation of extreme helplessness, which is contrary to the respect for their human dignity.⁴⁵⁶

States Parties are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31§1 for migrants in an irregular situation.⁴⁵⁷

In light of the information provided by the Government, the Committee assesses that changes in practice seem to be necessary in order to make possible the acceptance of this provision. The Committee encourages North Macedonia to pursue their efforts and to continue considering acceptance of Article 31§2.

Article 31§3 *The right to housing - Affordable housing*

Situation in North Macedonia

The government informs the Committee that the situation remained unchanged since the previous report.

Opinion of the Committee

Under this provision, States Parties are required to take measures to ensure an adequate supply of affordable housing to persons with limited resources.⁴⁵⁸

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.⁴⁵⁹ In order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show that the affordability ratio of the poorest applicants for housing is compatible with their level of income.⁴⁶⁰

States Parties must:

- adopt appropriate measures for the provision of housing, in particular social housing.⁴⁶¹ Social housing should target, in particular, the most disadvantaged;⁴⁶²

⁴⁵⁴ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), Complaint No. 173/2018, decision on the merits of 26 January 2021, §133

⁴⁵⁵ [Conclusions 2015, Statement of Interpretation on Article 31§2](#)

⁴⁵⁶ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §110

⁴⁵⁷ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §60

⁴⁵⁸ [Conclusions 2003, Sweden](#)

⁴⁵⁹ [ibid.](#)

⁴⁶⁰ [FEANTSA v. Slovenia, Complaint No. 53/2008](#), decision on the merits of 8 September 2009, §72.

⁴⁶¹ [Conclusions 2003, Sweden](#)

⁴⁶² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100

- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;⁴⁶³ judicial or other remedies must be available when waiting periods are excessive;⁴⁶⁴

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or Travellers wishing to live in mobile homes.⁴⁶⁵

Housing benefits

Under Article 31§3, States Parties are required to adopt comprehensive housing benefit systems to protect low-income and disadvantaged sections of the population.⁴⁶⁶ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.⁴⁶⁷

The right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.⁴⁶⁸

The Committee notes that the Government reports no recent developments in respect of this provision. The Committee maintains its conclusions from the previous report, where it considered that further information is required to properly assess the situation in law and practice. In particular, the Committee requested information with regards to the waiting periods for accessing social housing, legal remedies available in case of excessive waiting time, and with regards to the measure taken to ensure non-discrimination.

⁴⁶³ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

⁴⁶⁴ Ibid.

⁴⁶⁵ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149-155; Conclusions 2019, France

⁴⁶⁶ [Conclusions 2003, Sweden](#); [Conclusions 2019, Greece](#)

⁴⁶⁷ [Conclusions 2003, Sweden](#)

⁴⁶⁸ [Conclusions 2019, Turkey](#)

APPENDIX I - SITUATION OF NORTH MACEDONIA WITH RESPECT TO THE EUROPEAN SOCIAL CHARTER

Signatures, ratifications and accepted provisions

North Macedonia ratified the European Social Charter on 31/03/2005, accepting 41 of the Charter's 72 paragraphs. It ratified the Amending Protocol to the Charter on 31/03/2005.

North Macedonia ratified the Revised European Social Charter on 6 January 2012, accepting 63 of the Charter's 98 paragraphs.

It has signed but not ratified the Additional Protocol to the Charter and it has neither signed nor ratified the Additional Protocol providing for a system of Collective Complaints.

The Charter in domestic law

Automatic incorporation into domestic law based on the Constitution, Article 118: "The international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law".

Table of accepted and non-accepted provisions by North Macedonia

Grey = Accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										

Meetings and reports on non-accepted provisions

- [National report on non-accepted provisions of the European Social Charter by North Macedonia, 2017](#)
- [1st Report on non-accepted provisions of the European Social Charter by North Macedonia, 2018](#)
- [2nd National Report on non-accepted provisions of the European Social Charter by North Macedonia, 2022](#)

APPENDIX II

Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

(Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter, opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 (“the Charter”);

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasising that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.