



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

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**PRESS BRIEFING ELEMENTS**

**Conclusions 2019**

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## **The European Committee of Social Rights' Conclusions 2019: press briefing elements**

The European Committee of Social Rights in 2019 examined reports submitted by 37 States Parties on the articles of the Charter relating to children, families and migrants:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of children and young persons to social, legal and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27) and
- the right to housing (Article 31).

The reports covered the reference period 1 January 2014 to 31 December 2017.

The following 37 countries were examined:

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Finland, France, Georgia, Greece, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Republic of Moldova, Montenegro, the Netherlands Curacao, North Macedonia, Poland, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Spain, Turkey, Ukraine and the United Kingdom.

### *Comments from civil society*

For its examination of the state reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

### *The outcome: key figures*

In January 2020, the Committee adopted 896 conclusions on children, migrants and families in respect of the 37 states, including 289 conclusions of non-conformity and 453 conclusions of conformity.

In 154 cases, the Committee was unable to assess the situation due to lack of information ("deferrals").

### *Main findings*

- *Problems identified*

The problems highlighted in respect of the provisions at stake appear in Appendix I.

The Committee posed a number of questions to States Parties.

Regarding the detection of child labour and illegally working children the Committee noted that many states' legislation is in conformity with the Charter regarding the minimum age for employment. Nevertheless, the Committee is concerned about the situation in practice. There is data that suggests that in many countries there is a significant number of children working illegally. However, there is little official data on the extent of the problem. Therefore, the Committee requested all states to provide information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. In this regard, the Committee asked all states to provide information on the number of children actually working (either from existing statistics on this issue or from surveys to be conducted to obtain such information), as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally.

As regards the right of children to social, legal and economic assistance the Committee has noted with concern the increasing number of children in Europe registered as stateless, as this will have a serious impact on those children's access to basic rights and services such as related to education and healthcare. Therefore, the Committee asked what measures have been taken by the State to reduce statelessness (such as ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth).

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

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

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

As regards the right to education under Article 17§2 of the Revised Charter the Committee asked what measures have been taken to introduce anti bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention. Further the Committee asked about the voice of the child in education. It noted that securing the right of the child to be heard within education is crucial to the realisation of the right to education in terms of Article 17§2 This requires States Parties to ensure child participation across a broad range of decision-making and activities related to education, including in the context of children's specific learning environments. The Committee asked what measures have been taken by the State to facilitate child participation in this regard.

In addition the Committee adopted a statement of Interpretation on Article 8§4 and 8§5 (the right of employed women to protection of maternity- night work and dangerous and unhealthy work) where it states that in order to ensure non-discrimination on the grounds of gender, employed women during the protected period may not be placed in a less advantageous situation, if an adjustment of their working conditions is necessary in order to ensure the required level of the protection of health. It follows that, in the case a woman cannot be employed in her workplace due to health and safety concerns and as a result, she is transferred to another post or, should such transfer not be possible, she is granted leave instead, States Parties must ensure that during the protected period, she is entitled to her average previous pay or provided with a social security benefit corresponding to 100% of her previous average pay. Further, she should have the right to return to her previous post.

The Committee also adopted a statement of interpretation on Article 17§2 of the Revised Charter (the right to education).

The Committee recalled that Article 17§2 of the Charter requires States Parties to establish and maintain an educational system that is both accessible and effective. The Charter provides that the obligations under this provision may be met directly or through the involvement of private actors. The Committee notes further that in many states private education is also available.

The Committee is also mindful in this respect of the *Abidjan Guiding Principles on the human rights obligations of states to provide public education and to regulate private involvement in education*. It recalls that the requirement that states respect the freedom of parents to choose an educational institution other than a public institution leaves unchanged the obligation under the Charter to provide free quality public education. Similarly, the offer of educational alternatives by private actors must not be to detrimental to the allocation of resources towards, or otherwise undermine the accessibility and quality of public education. Moreover, states are required to regulate and supervise private sector involvement in education strictly, making sure that the right to education is not undermined.

- *Progress identified*

The Conclusions 2019 also show a number of positive developments which have taken place during the period under consideration. They appear in Appendix II.

## **Appendix 1: Summary of main findings**

- **The right of children to protection (Article 7)**

**Article 7** of the Charter guarantees the right of children and young persons to protection. It prohibits child labour (below 15 years of age) and employment of children in dangerous and unhealthy activities. It also guarantees special protection against physical and moral dangers, such as sexual exploitation.

The Committee found a high number of states not to be in conformity with Article 7§1 of the Charter on the grounds that the prohibition of employment below 15 years of age was not sufficiently monitored or that the situation in practice was problematic (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Romania, Serbia, Turkey and Ukraine).

Another not insignificant issue is that so-called 'light work' that can be performed by children under the age of 15 or by children who are still in compulsory education, is not adequately regulated in many states. Some states authorise excessively long hours of light work (Armenia, Estonia, Georgia, Greece, Lithuania, Malta, Portugal) The Committee considers that because of its excessive duration, the work performed by children ceases to be 'light' in nature and therefore, represents a violation of the Charter.

**Article 7§5** also guarantees the right of young workers and apprentices to a fair wage (or an appropriate allowance as the case may be). The fairness of the wage of a young worker is determined with reference to the adult starting wage and/or the statutory minimum wage for adults (where applicable), and the difference must not exceed 20%.

The Committee found that that a significant number of states (e.g. Albania, Andorra, Armenia, Azerbaijan, Belgium, Georgia, Germany, Serbia, Spain, Romania, the United Kingdom and Ukraine) did not comply with this fairness criterion with young workers' wages falling too far below the level of adult wages.

**Article 7§10** of the Charter - protection against physical and moral dangers - covers the protection of children from sexual, labour and other forms of exploitation, as well as protection from the misuse of information technologies and trafficking. The Committee observed that in some states the legislation does not fully protect all children against all forms of sexual exploitation (Bosnia and Herzegovina, Georgia, the Russian Federation, Turkey and Ukraine). Several states were found not to be in conformity on the grounds that children were not adequately protected against economic exploitation (Albania Georgia). There was a very high number of deferrals under this provision.

- **The right to maternity protection (Article 8)**

Under **Article 8§1**, the Committee assessed in particular whether employed women were entitled, in law and in practice, to at least 6-weeks post-natal paid leave. An essential element assessed under this provision is whether all employed women concerned – in the private as in the public sector - continue to receive at least 70% of their salary during the whole length of the compulsory maternity leave (with some exceptions possible for high-salaries. Several states were found not to be in conformity on this ground Bosnia and Herzegovina, Ireland, the Republic of Moldova, Turkey, the Russian Federation and the United Kingdom.

The Committee found that in almost a third (27%) of the situations examined the dismissal of pregnant employees and employees on maternity leave was allowed in circumstances which went beyond those allowed by **Article 8§2** of the Charter (Bosnia and Herzegovina, Ireland, the Slovak Republic, Spain and Turkey) or that the employee concerned could not get adequate redress or compensation in case of unlawful dismissal (Albania, Bosnia and Herzegovina and Turkey), particularly when no reinstatement is possible (Albania, Finland Italy, Turkey).

As regards the right to paid nursing breaks (**Article 8§3**), and the protection of employees who are pregnant, have recently given birth or are nursing their child in respect of night-work (**Article 8§4**) as well as in respect of dangerous, unhealthy or arduous work (**Article 8§5**), the few findings of non-conformity related mainly to insufficient evidence of an adequate specific protection of the women concerned in the relevant legislation. France and Spain were not in conformity with Article 8§3 during the reference period. Bosnia and Herzegovina Georgia the Republic of Moldova and Poland were not in conformity with Article 8§4. Azerbaijan, Bosnia and Herzegovina, Georgia, Hungary, the Republic of Moldova, Serbia, Turkey and Ukraine were not in conformity with Article 8§5.

- **The right of the family to social, legal and economic protection (Article 16)**

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the Committee examines housing for families, childcare, family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women and family benefits.

A reoccurring ground of non conformity relates to family benefits **15 states** (out of 33) are not in conformity with this provision: Azerbaijan, Belgium, Bosnia and Herzegovina, Greece, Ireland Italy, Latvia, the Republic of Moldova, Montenegro, **the Netherlands Curacao**, North Macedonia, Poland, Spain Ukraine and Turkey).

**9 states** (out of 33) are still not in conformity on this point as the entitlement to child benefits for nationals of other State Parties is made conditional on a length of residence of more than 6 months. The Committee accepts a length of up to 6 months, as the benefit in question is a non-contributory benefit. A length that is beyond 6 months is not in conformity with the Charter (Azerbaijan, Belgium, Bosnia and Herzegovina, Greece, Italy, Latvia, the Republic of Moldova, North Macedonia, Poland).

As regards adequacy of child benefits, the Committee looks at two issues: first, the adequacy of coverage (i.e. the percentage of families covered). Even if there is no obligation to have a universal system of child benefit (i.e. the entitlement can be means-tested), it should still be provided to a significant number of families. For instance, if the entitlement is limited only to those families who are below the poverty threshold (very poor families), then the Committee considers that its coverage is not adequate. In this cycle the Committee asked for information about the percentage of families covered. The second issue is the adequacy of level (the amount granted) – here the Committee has always considered that if the level of benefit (the lowest granted) falls below 5% of the median equivalised income, then the situation is not in conformity, unless it is made evident that in addition, there are other benefits, which are also paid to significant number of families. **9 states** are not in conformity on this ground (Azerbaijan, Italy, Latvia, the Republic of Moldova, Montenegro, North Macedonia, Poland, Spain and Ukraine).

Other violations identified under this provision relate to housing for families. **18 states** (out of 33) are not in conformity on the issue of housing for families: Azerbaijan, Austria, Belgium, Bosnia

and Herzegovina, Bulgaria, Estonia, France, Greece, Hungary, Ireland, Italy, Malta, the Republic of Moldova, North Macedonia, Portugal, Romania, the Russian Federation and the Slovak Republic)

The specific grounds for non-conformity are:

- equal treatment of foreign nationals (length of residence requirement): 2 states: Austria, Malta;
- adequate housing (general): one state: Azerbaijan (conformity not established);
- sufficient supply of adequate housing for (vulnerable) families: 2 states: Ireland (conformity not established), the Russian Federation);
- legal protection for persons threatened by eviction: 4 states: Bosnia and Herzegovina, Estonia, Hungary, Romania;
- vulnerable families (Roma/Traveller families): 12 states: Belgium, Bulgaria, France, Greece, Hungary, Ireland, Italy, the Republic of Moldova, Portugal Romania the Russian Federation and the Slovak Republic.

Inadequate measures to combat domestic violence has also given rise to a significant number of findings of non-conformity (Azerbaijan, Bosnia and Herzegovina, Bulgaria, Montenegro, the Republic of Moldova, Romania, the Russian federation, the Slovak Republic, Turkey and Ukraine).

- **The right of children and young persons to social, legal and economic protection (Article 17)**

Article 17 guarantees the right of children and young persons to legal, social and economic protection. It is a wide ranging provision covering issues such as the legal status of the child, protection from ill treatment and abuse, rights of children in public care, children in conflict with the law and the right to assistance.

It examined 33 national situations and found 19 countries to be in violation of the provision. For 6 countries it deferred its conclusion.

The Committee has found that prohibition of all forms of corporal punishment, which is at the heart of this provision of the Charter, has yet to be achieved in several states, especially in the home (Armenia, Belgium, Bosnia and Herzegovina, Georgia, the Russian Federation, Serbia, the Slovak Republic, and the United Kingdom (England)). The Committee noted that outside the reference period Scotland and Wales removed the defence of reasonable chastisement thereby prohibiting corporal punishment.

Article 17 also guarantees the rights of children in public care. The Committee has noted that in the majority of states the procedures for placement of children in care are well established and observed.

The Committee also observed that some states have taken steps to de-institutionalise public care by closing down large institutions and favouring placement of children in foster care or other family-type environment. However in respect of two countries it found that the ratio of children in institutions to the number of children in foster care or other types of family based care was too high (Armenia and Ukraine).

As regards children in conflict with the law, an age of criminal responsibility which is manifestly too low is still in existence in Ireland, Turkey and the United Kingdom. However the Committee noted that outside the reference period Scotland raised the age of criminal responsibility to 12 years.

Some states still make it possible to detain young offenders pending trial for long periods of time in breach of the Charter (Armenia, Austria, Belgium, Denmark, France, Hungary, Latvia, the Russian Federation, Poland, the Slovak Republic, Turkey).

A question was put to all states on the solitary confinement of children. One country is not in conformity on this ground (Denmark).

Another issue which arose for one state (United Kingdom) is the use of pain inducing restraint techniques in Young Offender Institutions.

An issue that was considerably developed during the cycle was the right to assistance. The Committee is increasingly concerned about the treatment of children in an irregular migrant situation unaccompanied or not and asylum seeking children. In particular it stated that the detention of such children cannot be considered as being in their best interests and States Parties should find alternatives to detention. Further accommodation must be appropriate and in particular safe, in order to protect this vulnerable group from violence and exploitation. In the respect it found two countries not to be in conformity on the ground of the inadequate and often unsafe accommodation of unaccompanied migrant children or the inadequate protection from violence and abuse (Greece, Hungary).

The Committee also raised a question regarding age assessments and bone testing. It noted that the use of bone testing in order to assess the age of unaccompanied children is inappropriate and unreliable. It asked whether the state uses bone testing to assess age and in what situations the state does so. Should the state carry out such testing, the Committee asked what potential consequences such testing may have (e.g. can a child be excluded from the child protection system on the sole basis of the outcome of such a test).

The Committee also decided to examine the issue of child poverty under this provision. It adopted a statement of interpretation on this provision and posed questions to all states.

Another new issue examined under Article 17§1 under the legal status of the child is the issue of statelessness, the Committee asked what measures have been taken to reduce statelessness such as ensuring that every stateless migrant child is identified simplifying procedures for obtaining nationality and taking measures to identify children unregistered at birth and to facilitate birth registration.

- **The Right to education (Article 17§2)**

Under **Article 17§2** of the Revised Charter<sup>1</sup> the States Parties have positive obligations to ensure equal access to education for all children, with particular attention to be paid to vulnerable groups.

The Committee examined the situation in 26 countries. It found 10 countries not to be in conformity (and deferred its conclusions in another 10 situations).

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<sup>1</sup> Note no corresponding provision in the 1961 Charter

While in the majority of the states an effective and accessible system of education is in place, some states (Armenia, Bulgaria, the Republic of Moldova, North Macedonia, Romania, the Slovak Republic) still have low enrolment rates in compulsory education, whereas in others (the Republic of Moldova) measures taken to ensure that Roma children complete compulsory education are not sufficient, Roma children are still subject to segregation in the education field (Hungary) or are disproportionately represented in special classes (Republic of Moldova, the Slovak Republic). Montenegro and the Russian Federation do not grant irregularly present children an effective right to education, which is also required by Article 17 of the Charter.

New issues raised include anti-bullying measures and the voice of the child in education.

- **The rights of migrant workers (Article 19)**

The respect of the rights of migrant workers was found to be particularly problematic, with all but three countries (Estonia, Lithuania and the United Kingdom) not being in conformity with one or more of the provisions of Article 19.

In particular, the rate of non-conformity findings rose to 72% as regards infringements on the right to family reunion (**Article 19§6**). It may result from the fact that at the previous cycle, the Committee adopted several statements of interpretation clarifying the scope of Article 19§6. The Council of Europe evidently faces a daunting challenge in persuading more member states to accept the right to family reunion and the obligations that follow from it. Family reunion procedures account for a very significant proportion of migration flows to Europe; in the EU area ranging from 30-50% of total legal immigration over the last decade. It is not surprising therefore that the right to family reunion leads an uneasy existence caught between mostly competing concerns: on the one hand a commitment to protect human rights and on the other hand economic and political interests in "managing" migration.

Apart from obstacles to family reunion related to excessive residence, language or income requirements, the Committee noted that in many cases the expulsion of a migrant worker could entail the expulsion of his/her family members, without assessing their own personal circumstances.

On the positive side, all states (apart from one deferral) were found to be in conformity as regards **Article 19§5**, which recognizes the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.

Also, the situation in States Parties as regards the requirement to take appropriate measures to facilitate reception of migrant workers and their families (**Article 19§2**) is also improving, with only two findings of non-conformity (Armenia and Luxembourg) which were due to lacking information on the above issues.

**Article 19§4** concerns, as the whole Article 19, the migrant workers and their families and does not apply to refugees and asylum seekers.

The most problematic matter for states has been the ruling by the Committee that a requirement of a period of residence as a condition of eligibility for public housing that applies equally to nationals and non-nationals is a breach of Article 19§4. Such a requirement is characterised by the Committee as indirect discrimination because it is a requirement that non-national migrant workers find significantly more difficult to comply with than nationals and that cannot be justified for good public interest reasons.

**Article 19§8** of the European Social Charter provides that migrant workers lawfully residing within the territories of the State parties shall not be expelled unless they endanger national security or offend against public interest or morality. The situation has improved comparing to previous cycles. **Six** countries were found to be in non-conformity (Luxembourg, Romania, Greece, North Macedonia, Turkey and Poland). The established problems were that the reasons for expulsion went beyond the exemptions allowed under the Charter, in particular in situations where migrant workers do not endanger national security or offend against public interest or morality.

The findings of non-conformity under Article 19§1 revealed predominantly problems with practical and legal measures to tackle racism and xenophobia and prevent hate speech in media and public discourse (Belgium, France, Italy Turkey and Georgia).

In addition to the conclusions state-by-state, the Committee also adopted a statement of interpretation clarifying the scope of Article 19, underlying that it concerns specifically rights of migrant workers and their families and does not apply to refugees and asylum seekers, whose relevant rights are protected under other provisions of the Charter.

- **The right of workers with family responsibilities to equal opportunity and treatment (Article 27)**

**Article 27** guarantees the right of workers with family responsibilities to equal opportunities and treatment. National legislation should entitle men and women to an individual right to parental leave, which should be provided to each parent and at least some part of it should be non-transferable. In its conclusions the Committee found that in the majority of states having accepted this provision of the Charter both parents enjoy a right to parental leave.

The Committee found that the situation was not in conformity with **Article 27§1 (participation in working life)** only in one case (Georgia) on the ground that the legislation does not specifically provide for facilitation of reconciliation of working and private life for persons with family responsibilities.

According to **Article 27§2 (parental leave)**, national legislation should entitle men and women to an individual right to parental leave, which should be provided to each parent and at least some part of it should be non-transferable. In its conclusions, the Committee found that in the majority of states having accepted this provision of the Charter both parents enjoy a right to parental leave. However, one of the key features of Article 27§2 is that states shall ensure that an employed parent is adequately compensated for his/her loss of earnings during the period of parental leave. It is not the case in three situations: Armenia, Azerbaijan and Ukraine (the level of parental leave benefit is inadequate). In three other cases, the Committee found that the situations were not in conformity on the ground that no compensation or remuneration is provided for parental leave (Ireland, Malta and Turkey).

**Article 27§3 (illegality of dismissal on the ground of family responsibilities)** also requires the prohibition of dismissal on the ground of family responsibilities and the existence of effective remedies in case of unlawful dismissal. The Committee has observed that dismissal on grounds of family responsibilities is prohibited in all but three states (Bulgaria, Italy and Turkey) having accepted this provision.

- **The right to housing (Article 31)**

**Article 31** guarantees the right to housing. While Article 31 cannot be interpreted as imposing on states an obligation of “results” it notably obliges them to adopt the necessary legal, financial and operational means of ensuring steady progress, measurable and within reasonable time, in the realisation of this right.

The Committee’s conclusions reflect a relatively low degree of compliance with the provisions of Article 31.

Under **Article 31§1 (adequacy of housing)** there are 2 countries in conformity (Andorra and Finland) and 8 countries in non-conformity with this provisions of the Charter.

Most of the non-conformities concern the substandard housing conditions of Roma/Travellers (France, Greece, Italy, Latvia, Portugal, Turkey, and Ukraine).

Other non-conformities concern more general problems such as substandard housing for a large number of dwellings (France), supervision of housing standards (Lithuania) and the lack of rules imposing obligations on landlords to ensure that dwellings are of an adequate standard (Turkey).

As regards **Article 31§2 (reduction of homelessness)** 8 countries are not in conformity with this provisions of the Charter and only 1 country (Finland) is in conformity.

Most of the non-conformities concern the insufficient legal protection for persons threatened by eviction (forced eviction), including on specific issues under this topic such as the prohibition of evictions during winter: Andorra, France, Greece, Lithuania, Portugal, Turkey and Ukraine. Some of these are due to lack of sufficient information (“it has not been demonstrated”).

Some non-conformities refer specifically to evictions of Roma (France, Greece, and Italy).

Other non-conformities are based on the insufficient measures to reduce and prevent homelessness in general (France, Italy, and Turkey).

Finally, another ground for non-conformity is the insufficient protection of the right to shelter (Lithuania, Portugal, Turkey and Ukraine).

Finally, under **Article 31§3 on affordable housing**, 1 country is in conformity (Finland), 3 in non-conformity (France, Italy and Portugal) and there are two deferrals (Greece and Turkey).

The non-conformities with Article 31§3 basically concern the shortage of social housing (France and Portugal) and the lack of equal treatment of foreign nationals lawfully residing with regard to social housing and housing benefits (length of residence requirements, Italy, in connection with Article 19§4). Two non-conformities concern access of Roma/Travellers/Sinti to social housing or housing assistance (France and Italy).

Some of the issues raised in the questions formulated to the states for the next reports are: the overall availability of social housing (number of applications introduced, percentage of those granted, and average of waiting times); housing support and benefits for foreign nationals lawfully residing.

## Appendix II : Positive Developments

### **Conclusions 2019: examples of progress in the application of the European Social Charter with respect to children, migrants and families.**

In its Conclusions 2019/XXI-4, the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or in some cases on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information). Below follows a selection of examples:

#### **Article 7§1**

- In **North Macedonia** the Law on Labour Relations was amended in 2018 (outside the reference period) published in the Official Gazette No. 120/2018 in respect of the duration of working hours of light work and holidays for children. Article 18 (2) of the Law on Labour Relations now reads as follows: *“This Law shall forbid the work of a child under the age of 15 or a child who has not completed compulsory schooling, except for participation in activities allowed by law, but no longer than two hours a day and or 12 hours a week, and during the school holidays no longer than six hours a day or 30 hours a week, and during this period, the child is entitled to a two-week holiday.”*

#### **Article 8§1**

- Article 45 of the **Brčko District (Bosnia and Herzegovina)** Labour Law had been amended on 23 August 2014 and a Decision on the Conditions and Manners of Payment of Compensation of Salary during Maternity Leave (No. 34-000890/13 of 15 January 2014) had come into force on 22 January 2014. During maternity leave, employees are entitled to salary compensation equal to the average net wage earned over the last six months prior to maternity leave (and not 12 months).
- In **Armenia**, Law No. HO-160-N of 27 October 2010 was amended by Law No. HO-206-N of 1 December 2014 in order to replace “temporary incapacity benefits” for pregnant women or those on maternity leave by “maternity benefits”.
- In **Luxembourg**, in accordance with the law of 15 December 2017, the duration of postnatal leave increased from 8 to 12 weeks.
- In **North Macedonia**, following amendments to the Law on Labour Relations during the reference period (Official Gazette No. 72/15), paid maternity leave for multiple births was extended from 12 to 15 months.
- In **the Slovak Republic**, the amount of maternity benefits increased from 65% (Conclusions 2015) to 75% of the employee’s salary (the situation is now in conformity with Article 8§1 of the Charter on this point).

## Article 8§2

- In **France** Under Article 10 of Law No. 2016-1088 of 8 August 2016 relating to Work, Modernisation of Social Dialogue and Securing of Professional Processes, the statutory period of prohibition to terminate the employment contract at the employer's initiative following pregnancy or maternity leave has been extended from four to ten weeks after maternity leave and now includes the period of paid leave immediately following maternity leave. This protection covers pregnant women and also their employed spouses and adoptive parents.
- In **Lithuania**, according to the new Labour Code which came into force on 1st July 2017, pregnant women enjoy protection against dismissal from the day they notify their employer that they are pregnant until the child is four months old.

## Article 16

- In **Austria**, pursuant to legislative changes, the situation in seven out of nine *Länder* (Burgenland, Carinthia, Upper Austria, Styria, Salzburg, Tyrol and Vorarlberg) has been put in conformity with the Charter insofar as their Housing Subsidies Acts provide for equal treatment of foreign nationals. However, in Lower Austria and in Vienna *Länder* a distinction continued to apply, to a certain extent, in the specific context of housing allowances (five years residence requirement). The situation remains in breach of the Charter in respect of these two *Länder*.
- In **Hungary**, the national report refers to the results of several programmes for slums: by 2015-2016, 55 programmes for slums were implemented in 66 segregated areas. Renovation or building work was carried out in 8 settlements, in 112 dwellings (39 newly built; 73 renovated). The housing conditions of about 500 persons of 132 families were improved. The Committee takes note of the continuing efforts made by Hungary, in particular as regards the improvement of housing conditions of people living in slums and segregated areas. However, it puts additional questions on the availability of housing support for the next report and defers its conclusion on this aspect (in 2015 and 2017 it was non-conformity for non-establishment on this ground, adequate supply of housing for vulnerable families).
- As regards **Iceland**, the current report provides information on the different types of housing support during the reference period, including figures on the number of households that benefitted from them and the number of social housing units (municipal rental apartments) for each year. The Housing Benefit Act No. 75/2016 replaced the earlier Rent Benefit Act. Under this new legislation, the administration of financial support to tenants (previously termed "rent benefit", now termed "housing benefit") was transferred from the municipalities to the State. The main change is that the basic amount of housing benefit rises according to the number of persons in the household, irrespective of their age. Thus, housing support is not bound by the type of family and has been made more equal than it used to be. Housing benefit can, at its maximum level, amount to 75% of the rent, while maximum rent benefit in the old system could reach only 50% of the rent. On the other hand, municipalities are now obliged to offer additional special housing support to tenants if certain conditions which each municipality sets are met (tenants living under very difficult social and financial conditions). Prior to the new system, they were permitted, but not obliged, to offer these special rent benefits. The Committee takes note of all the

legislative developments which have taken place during the reference period as well as of the figures provided in the report on the availability and the different modalities of housing support. It considers that the situation is in conformity with the Charter on this aspect.

- In **Estonia** the amount of child allowance has been significantly raised compared to the previous reference period from € 19 (2013) to € 55 (2017). The Committee notes that the child allowances now represent 7% of the median equivalised income. The Committee considers that with the raise in the child allowance, the situation has been brought into conformity with the Charter.
- In **Hungary** following the amendments of 2014 to the Family Support Act, the personal scope of family benefits has been extended and now covers third-country nationals holding a single permit, provided that their employment was permitted for a period exceeding 6 months. The Committee considers that these amendments have brought the situation into conformity with the Charter as there is no longer a length of residence requirement for access to family benefits

#### Article 17

- **Estonia, France, Ireland, Lithuania, Malta, Montenegro, Scotland and Wales** all abolished all forms of corporal punishment in all settings (albeit France, Scotland and Wales outside the reference period).
- **Ireland** the practice of detaining children in adult prison facilities ended.
- In **the Republic of Moldova** and **Ukraine** efforts have been made to ensure that children cannot be taken into care on the grounds of the financial circumstances of their families.

#### Article 27

- In **France** under Law No. 2014-459 of 9 May 2014, companies may set up a system for donating rest days to a parent whose child is seriously ill. Law No. 2018-84 of 13 February 2018 has set up similar arrangements which make it possible to donate leave days which have not been taken to the caregivers of dependent persons or persons with disabilities.
- In **Turkey** under Act No. 6663 which entered into force on 10 February 2016, workers with family responsibilities (public and private sectors) may work part-time until their child reaches compulsory school age. Requests to work part-time may not be regarded as valid grounds for termination of employment contracts.

#### Article 31

- In **France**, the situation as regards the legal protection of the right to housing for non-nationals has been brought into conformity with the Charter. In 2011 the Committee found that the requirement of two years' prior residence in France to be entitled to submit an application to the committee in charge of the DALO procedure (enforceable right to housing) was excessive. This requirement was annulled by the Conseil d'Etat and the legislation was amended in 2012 following this decision: the 2 year residence requirement is no longer applied. The Committee has found in 2019 that the situation has been brought into **conformity** with Article 31§1 on this aspect.

- In respect of **Portugal**, the Committee noted that there is a new basic housing law (Law No. 83/2019, outside the reference period, not referred to in the national report). It asks the next report to describe what are the legal remedies provided for by this law for the protection of the right to adequate housing (31§1).
- In **Andorra**, although there is no formal prohibition against evicting persons staying in temporary shelters (hotels), in the event that the hotelier should no longer wish to continue accommodate the person concerned, the hotelier notifies social services so that they can make alternative arrangements. The Committee previously reserved its position (2017) and now concludes, in the light of this information, that the situation is in conformity with Article 31§2 of the Charter.
- With regard to **Finland**, the Committee noted that according to an international evaluation commissioned on the programme on reducing long-term homelessness (2005-2015), Finland was one of the best examples of implementing the “housing first” model. The national report indicated that long-term homelessness has continued to decrease (by 35% between 2008 and 2015) and that at the end of 2017 there were 7 112 homeless persons, less than 0.2 % of the population. There is a new action plan for preventing homelessness 2016-2019. The current goal is to reduce the number of homeless people to less than 4 000 before 2023. The Committee considers that Finland continues to be committed to tackling homelessness in compliance with Article 31§2 of the Charter.
- As regards **Lithuania**, the Committee had previously considered that the legal protection for persons threatened with eviction was not adequate (2011, 2015, 2017). While the Committee reiterates its conclusion of non-conformity on the specific point of prohibition of evictions during the winter period, it now considers that the situation is in conformity with respect to: the obligation to rehouse the persons evicted in case of eviction for reasons of public interest (notably when the dwellings are unfit for habitation and when they are being demolished, reconstructed); and access to legal remedies and compensation in the event of illegal eviction.
- In **Italy**, the Committee takes note of a positive development in the domestic case-law: the Constitutional Court has found in 2018 (20/07/2018) that the conditions of access applied to third-country nationals with regard to housing benefits granted for the payment of rent were unconstitutional. The CC held that it was manifestly unreasonable and arbitrary to set a 10-year national residence requirement or a 5-year regional residence requirement for third country nationals to be entitled to housing benefits of this type. However, since this judgment was given outside the reference period, the Committee reiterates its previous conclusion of non-conformity with Article 31§3.